

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 32 of 2013

JUDGMENT:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. aggrieved by the judgment dated 31.12.2012 passed in CrI.A.No. 85 of 2012 on the file of the Sessions Judge at Mahabubnagar.

The case of the prosecution in nutshell is as under:

On 06.04.2009 at about 3.00 p.m. the Inspector of Police received a report from Ediga Anjilaiah Goud stating that on that day at about 12.45 hours his son by name Bhaskar Goud was coming on a motor cycle bearing registration No.AP 22F 8365 from Mahabubnagar to Chinna Dharpally village. On the way, near Kosgi road, a motor cycle bearing registration No.MH 12FB 2431 coming from opposite direction dashed against the motor cycle of the son of the informant. As a result of which, the son of the informant fell on road and sustained injuries. Meantime, one Mende Balaiah, who was coming behind him on a motor cycle, informed to 108 ambulance and thereafter shifted the injured to S.V.S.Hospital. But on the way the injured died. On receiving information from Mende Balaiah, the informant rushed to the hospital and found his son dead. It is stated that the rider and pillion rider of motor cycle bearing No.MH 12FB 2431 also sustained injuries. Basing on these allegations, a case in crime No.110 of 2009 under Sections 304-A and 337 IPC came to be registered. After completing investigation, the police filed a charge sheet which was taken on file as

C.C.No.440 of 2009 on the file of the Judicial Magistrate of First Class at Mahabubnagar and later renumbered as C.C.No.836 of 2009.

On appearance, the accused was furnished with all the documents as required under Section 207 Cr.P.C. Later, he was examined under Section 251 Cr.P.C. wherein he denied the charges and claimed to be tried. In support of its case, the prosecution examined P.Ws.1 to 10 and got marked Exs.P.1 to P.7. The defence marked Ex.D.1.

After analyzing the evidence on record, the trial Court convicted the accused for the offences punishable under Sections 304-A and 337 IPC and accordingly sentenced him to suffer rigorous imprisonment for a period of one year for the offence punishable under Section 304-A IPC and also directed him to pay a fine of Rs.2,000/- in default to suffer simple imprisonment for six months. He was also directed to pay a fine of Rs.500/- for the offence punishable under Section 337 IPC. Challenging the same, the accused filed CrI.A.No.85 of 2012 before the Court of the Sessions Judge at Mahabubnagar wherein the learned Sessions Judge acquitted the accused for the offence punishable under Section 337 IPC, but however found him guilty for the offence punishable under Section 304-A IPC. However, the learned Sessions Judge reduced the sentence of imprisonment of one year to that of six months. Challenging the same, the present revision is filed.

The learned counsel for the petitioner mainly submits that

the evidence of P.Ws.1 to 6 does not anywhere refer to the presence of the petitioner at the scene of offence. According to him, the evidence of P.Ws.2 and 3 is silent as to the person who was riding the crime vehicle. He submits that since these two eyewitnesses were not even asked to identify the petitioner in the Court, there is any amount of doubt as to who was riding the vehicle at the time of accident.

Per contra, the learned Public Prosecutor submits that both the Courts on appreciation of evidence have concurrently held that the petitioner is the driver of the crime vehicle and as such it cannot be said that the petitioner was not the driver of the crime vehicle.

In order to appreciate the rival submissions, it would be useful to refer to the evidence of the witnesses. P.W.1 is the father of the deceased. In his evidence, P.W.1 deposed that on 06.04.2009 at about 12.30 p.m. while he was present at the agricultural work, one Balaiah came to him and informed about the accident which took place near Bandameedipally outskirts. Immediately he rushed to the scene and found his son lying with injuries and shifted his son to the Government hospital where his son died. His enquiries revealed that on the date of accident, the deceased along with his another son were proceeding from Mahabubnagar to Chinnadarpally village on a motor cycle and when they reached the outskirts of Badameedipally village, a motor cycle along with pillion rider coming from opposite direction dashed his son. His evidence

also discloses that the crime vehicle was driven by its rider in a rash and negligent manner. In cross-examination, he goes back and denies the contents of Ex.P.1. He denied the suggestion with regard to the accident taking place due to the rash and negligent driving of the driver of the crime vehicle.

P.Ws.2 and 3 were examined as eyewitnesses to the incident. In his evidence P.W.2 stated that about three years back at about 12.00 noon while he was coming from Chinnadarpally to Mahabubnagar on his motor bike and when he reached Muduguchala, he found Bhaskar coming in opposite direction i.e., from Mahabubnagar to Chinnadarpally on his bike. It is said that at that time one person, who was behind P.W.2, overtook him and dashed Bhaskar, due to which, Bhaskar fell down and sustained injuries. Immediately, he shifted the injured in 108 ambulance. It is also said that the accident occurred due to negligence of the driver of the crime vehicle bearing registration No.MH 12FB 2431. To a suggestion that he has not seen the accident was denied by him.

P.W.3 was also examined as an eyewitness to the incident. According to him, on the date of accident he was proceeding from Chinnadarpally to Mahabubnagar on his bike. At that time, the deceased was coming from Mahabubnagar to Chinnadarpally village. His evidence further discloses that the accident took place due to rash and negligent driving by the rider of the crime vehicle bearing No. MH 12FB 2431. To a

suggestion that he has never seen the accident was denied by him.

P.W.4 who is the wife of the deceased is not an eyewitness to the incident. However, her evidence discloses that her husband was hit by a motor bike coming from Chinnadarpally to Mahabubnagar. P.W.5 is the elder brother of the deceased and is not an eyewitnesses. P.W.6 was panch for the scene of offence. The evidence of the Investigating Officer, who was examined as P.W.10, would show that the crime vehicle bearing No. MH 12FB 2431 was found lying at the scene of offence.

The evidence of P.Ws.2 and 3 categorically shows that the accident took place due to rash and negligent driving by the rider of the crime vehicle. It is to be noted that P.Ws.2 and 3 though in their chief-examination categorically stated that the accident took place due to rash and negligent driving by the rider of the crime vehicle, but the petitioner never suggested to any of these two witnesses that he was not the driver of the crime vehicle. A vague suggestion was made to show that these two witnesses have never seen the incident, which was denied by them. Therefore both the Courts below relied upon the evidence of P.Ws.2 and 3, in order to establish that the accident took place due to rash and negligent driving by the rider of the crime vehicle. In fact, even in 313 Cr.P.C. examination, the petitioner did not state that he was not driving the vehicle at the time of accident. Hence, I see no reason to

interfere with the findings given by the trial Court.

At this stage, the learned counsel for the petitioner submits that the accident took place in the year 2009 and for the last seven years the petitioner is going round the Courts thereby putting him to untold misery and mental strain. He further submits that the petitioner will be put to great hardship if he is sent to jail as his entire family is dependent on him. Having regard to the circumstances stated above, the sentence of imprisonment for a period of six months imposed on the petitioner is reduced to two (2) months while confirming the fine imposed by the trial Court.

With the above modification in the sentence, the Criminal Revision Case is disposed of.

C. PRAVEEN KUMAR, J

18th March, 2015
cbs

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