

HON'BLE SRI JUSTICE ANIS

CRIMINAL REVISION CASE No.146 of 2007

JUDGMENT:

This Criminal Revision Case is directed against the judgment of the learned VII Additional District and Sessions Judge (Fast Track Court), Krishna at Vijayawada, in Crl.A.No.160 of 2005 dated 23.01.2007, confirming the conviction and sentence, of rigorous imprisonment for a period of one year for the offence under Section 304-A IPC; to pay a fine of Rs.500/- for the offence under Section 338 IPC in default simple imprisonment for one month; and to pay a fine of Rs.100/- for each count for the offence under Sections 134(a) and (b) read with 187 of the Motor Vehicles Act, in default simple imprisonment for one week, imposed against the revision petitioner-accused by the learned III Additional Chief Metropolitan Magistrate, Vijayawada in C.C.No.1249 of 2003 dated 03.08.2005.

It is the case of the prosecution that, on 16.02.2003 at about 2.30 hours, on N.H.5 road near Netaji Bridge, Ranigarithota, Krishnalanka, the accused, who is the revision petitioner, drove the lorry loaded with iron wire at high speed in a rash and negligent manner and dashed the platform rickshaw lying in the road margin and later rammed down off the road and fell on a mini lorry bearing No.AP.02.7425, resulting in the death of three persons sitting on the platform rickshaw, one person in the mini lorry and a boy in the crime vehicle; and four persons (LWs.12 to 15) traveling in the crime vehicle sustained grievous injuries. The accused was tried for the offences under Section 304-A IPC and Sections 134(a) and (b) read with 187 of the Motor Vehicles Act.

The prosecution examined P.Ws.1 to 29 and got marked

Exs.P.1 to P.10 to prove the guilt of the accused. After completion of prosecution evidence, the accused was examined under Section 313 Cr.P.C. and denied incriminating material against him and submitted that there was no evidence on his behalf. The Trial Court, after considering the evidence of the eye-witnesses, the evidence of the doctor, who treated the injured, and the evidence of motor vehicle inspector (PW.20), found the revision petitioner-accused guilty of the offence under Section 304-A of I.P.C. and, accordingly, convicted and sentenced him as stated supra.

In an appeal preferred by the revision petitioner-accused against the said conviction and sentence, the learned VII-Additional District and Sessions Judge (Fast Track Court), Krishna at Vijayawada, in CrI.A.No.160 of 2005 dated 23.01.2007, confirmed the conviction and sentence recorded by the trial Court. Aggrieved by the same, the revision petitioner-accused preferred this criminal revision.

Learned Counsel for the revision petitioner contended that there is absolutely no evidence to establish the fact that the accused, as the driver of the crime vehicle, was rash and negligent in driving the crime vehicle; examination of the crime vehicle by PW.20 three days after the accident vitiates the prosecution case; and failure to seize the trip sheet by PW.29 (Inspector of Police) does not establish the revision petitioner to be the driver of the crime vehicle. In support of his case, learned counsel relied on **State of Karnataka v. Satish**^[1].

Learned Public Prosecutor appearing for the State contended that the accused drove the crime vehicle in a rash and negligent manner; the evidence produced by the prosecution clearly establishes that the petitioner was the driver of the crime vehicle; the prosecution produced all material witnesses and

inquest panchayatdars, who were present at the time of conducting inquest; failure to seize Ex.P.19, trip sheet, does not favour the accused; and based on the evidence of PWs.1 to 3 and other material witnesses, the prosecution proved the case beyond reasonable doubt.

In **Satish**, the Supreme Court observed as under:

“.....The Motor Vehicle Inspector who inspected the vehicle had submitted his report. That report is not forthcoming from the record and the Inspector was not examined for reasons best known to the prosecution. This is a serious infirmity and lacuna in the prosecution case.

There being no evidence on the record to establish “negligence” or “rashness” in driving the truck on the part of the respondent, it cannot be said that the view taken by the High Court in acquitting the respondent is a perverse view. To us it appears that the view of the High Court, in the facts and circumstances of this case, is a reasonably possible view. We, therefore, do not find any reason to interfere with the order of acquittal. The appeal fails and is dismissed.”

The record clearly shows that the prosecution examined 29 witnesses and, out of them, PWs.1 to 3 are eye-witnesses, who categorically witnessed the accident and stated, in their evidence, that the accused drove the crime vehicle at a high speed in a rash and negligent manner resulting in the death of five persons on the spot. The evidence of PW.7 was that he was traveling in the crime vehicle, along with his wife and daughter; his daughter died in the accident and wife sustained injuries; and identified the revision petitioner - accused to be the driver of the crime vehicle. PW.8 deposed, in his evidence, that he boarded the lorry at Kattipudi to go to Vijayawada to attend coolie work and stated that the accused drove the crime vehicle and dashed against the rickshaw. PWs.13 and 14, who were travelling in the crime vehicle, supported the version of the prosecution. The evidence of doctor (PW.23) clearly establishes that he examined PWs.13 and 14 and issued wound certificates. The evidence of PW.20, Motor Vehicle Inspector, is

that three days after the accident, the vehicle was inspected; and, according to him, the accident was not due to any mechanical defects in the crime vehicle and Ex.P.12 is the certificate issued by him. Thus the prosecution established that the revision petitioner was the driver of the crime vehicle, and drove the vehicle in a rash and negligent manner.

The judgment in **Satish** (1 supra) has no application to the facts of the case as there is ample evidence to show that the petitioner was the driver of the crime vehicle, and drove it in a rash and negligent manner.

The evidence produced by the prosecution i.e. eye-witnesses and circumstantial witnesses clearly establishes that the revision petitioner – accused was rash and negligent in driving the crime vehicle due to which five persons died on the spot, and three persons sustained grievous injuries. The Trial Court as well as the Appellate Court, after considering the evidence on record, rightly convicted the accused for the offence under Section 304-A IPC. Therefore, the findings recorded by both the Courts below do not warrant interference of this Court.

The Criminal Revision Case fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall stand dismissed.

ANIS, J

Date:02.03.2015
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[\[1\]](#) (1998) 8 SCC 493