

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.38 of 2013

ORDER:

1. No representation on behalf of the petitioner

since 04-03-2015, even though the matter is posted under different captions including under the caption 'For pronouncement of judgment'. Hence treated as heard. Heard the learned Public Prosecutor for the state and perused the material on record.

2. The present criminal revision is filed by the petitioner/accused under Section 397 and 401 of Cr.P.C. aggrieved by the judgment dated 05-12-2012 passed in CrI.A.No.35 of 2008 on the file of VI Additional District & Sessions Judge, (Fast Track Court), Vikarabad, wherein the conviction and sentence imposed by the trial Court in C.C.No.138 of 2005 was confirmed.

3. The case of the prosecution is as under:

A charge sheet came to be filed against the petitioner for the offences punishable under Sections 304-A, 337 IPC in respect of an incident, which is alleged to have taken place on 23-11-2004. It is stated that on that day at about 7.20 am, when the *de facto* complainant and another person were proceeding towards their village in an auto bearing No.AP 28V-6334 driven by one Nooruddin and when they reached near market yard at Chevella, a lorry bearing No. AP 21 V 7639 driven by its driver in a rash and negligent manner came and dashed the auto. As a result of which, the inmates of the auto sustained injuries and wife of LW.2 by name Anitha died. In respect of this incident, a case in Cr.No.275/2004 came to be registered. The police after investigation filed charge sheet, which is taken on file as C.C.No.138 of 2005 for the offences punishable under Sections 304-A and 337 IPC.

4. In support of its case, the prosecution examined PWs 1 to 7 and got marked Ex.P.1 and Ex.P.2. No oral or documentary evidence was adduced on behalf of the respondent/accused.

5. After closure of the prosecution evidence, accused was examined under Section 313 Cr.P.C by putting all incriminating material available against him. Accused denied the material appearing against him but reported no oral or documentary evidence on his behalf.

6. The trial Court, after appreciating the evidence on record, convicted the accused for an offence punishable

under Section 304-A IPC and sentenced him to undergo Imprisonment for a period of nine months and to pay a fine of Rs.3,000/-. The accused was also directed to undergo an imprisonment for a period of three months also to pay fine of Rs.500/- for the offence punishable

under Section 337 IPC. In default of payment of fine, the accused was directed to undergo an imprisonment for a period of three months. Both the sentences were directed to run one after the other. Challenging the same, the petitioner filed CrI.A.No.35 of 2008 before the VI Additional Sessions Judge (FTC), Vikarabad, wherein, the learned Sessions Judge by his judgment dated 05-12-2012 dismissed the appeal confirming the conviction and sentence passed by the trial Court. Aggrieved by the same, the present Revision is filed.

7. PW is the complainant, PWs 2 and 3 are the eye-witnesses, PW.4 and PW.5 are the panch witnesses and PWs.6 and 7 are the Investigating Officers.

PW.1 in his evidence deposed that about three years back the auto, in which he was travelling was hit by a lorry driven by its driver in a rash and negligent manner and also in wrong direction. He further deposed that the accused herein was the driver of the crime vehicle.

PW.2 in his evidence deposed that the auto, in which he was travelling on the fateful day was hit by a lorry at Chevella corss roads. According to him, due to the accident he received fracture injuries to his left leg, while his wife died. He further deposed that he was treated for four days in O.G.H. hospital.

PW.3 in his evidence deposed that the auto driven by him was hit by lorry near Chevella market yard, which was coming in a high speed and in a wrong direction.

He further deposed that the accused was the driver of lorry at the time of the accident and he sustained injuries on left cheek and head. According to him, he was treated in the hospital for ten days.

8. Though PWs 1 to 3 were subjected to lengthy cross-examination, nothing was elicited to discard their testimony. Since both the Courts have appreciated the evidence on record and rightly came to the conclusion that the petitioner is liable for the offences punishable under Sections 304-A and 337 IPC, interference of this Court disturbing the factual aspects is unwarranted. It is to be noted that the offence is of the year 2004 and since then the accused is moving around the Courts. In the trial Court, he pleaded that he is the sole earning member and his family will be put to great difficulty if he is sent to jail.

9. Taking into consideration the circumstances of the case, the sentence of imprisonment awarded for the offence punishable under Section 304-A IPC is reduced from nine months to six months while confirming the sentence of imprisonment awarded for the offence punishable under Section 337 IPC. However, both the sentences shall run concurrently.

10. With the above modification, the Criminal Revision Case is disposed of. Miscellaneous Petitions pending if any in this criminal revision, shall stand closed.

C. PRAVEEN KUMAR, J

29-04-2015

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