

HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRL.R.C.No.432 of 2007

JUDGMENT:

This criminal revision case is directed against the judgment of the learned II-Additional Sessions Judge, Karimnagar at Jagtial, in Crl.A.No.21 of 2006 dated 22.03.2007.

It is the case of the prosecution that, on 28.02.2000, P.W.9 along with his wife, parents and relatives of bride-groom were proceeding to Rechapalli village from Rekulapalli in a private service bus bearing No.A.P.15-U-122 to attend the marriage of P.W.5 and when they reached at the outskirts of Beerpur village near ghat road at about 0900 hours, the revision petitioner-accused drove the bus in a rash and negligent manner at high speed, as a result of which, the vehicle turned turtle on its right side, causing instantaneous death of one Anis Fathima, wife of P.W.9, and injuries to P.Ws.1, 3, 4 and 9 others. The accused was tried for the offences punishable under Sections 304-A and 337 of I.P.C.

The prosecution has examined P.Ws.1 to 13 and got marked Exs.P1 to P43 to prove the guilt of the accused. On a perusal of the entire evidence, both oral and documentary, the trial Court, found the revision petitioner-accused guilty of the offences punishable under Section 304-A and 337 I.P.C. and accordingly convicted and sentenced him to undergo rigorous imprisonment for a period of two years for the offence under Section 304-A I.P.C and further sentenced to undergo simple imprisonment for a period of six months for the offence under Section 337 I.P.C. Questioning the said conviction and sentence, the revision petitioner-accused preferred Crl.A.No.21 of 2006 and the learned II-Additional Sessions Judge, Jagtial, by judgment dated 22.03.2007, while confirming the conviction recorded by the trial Court for the offences under Sections 304-A and 337 I.P.C., reduced the sentence of rigorous imprisonment to three months for the offence under Section 304-A I.P.C., however, did not impose any separate sentence for the offence under Section 337 I.P.C. Aggrieved thereby, the revision petitioner-accused preferred this criminal revision.

Learned Counsel for the revision petitioner submits that the Courts below have not appreciated the evidence on record in proper perspective and have erroneously found the revision petitioner-accused guilty of the charges levelled against him. He further submits that the place where the accident took place is a ghat road and that the Motor Vehicle Inspector had failed to check the condition of the tyres of the bus; that the Courts below erred in convicting the revision petitioner and that benefit of doubt may be extended to him.

Stoutly refuting the aforesaid submissions, the learned Public Prosecutor representing the State contended that there is sufficient material to show that the revision petitioner-accused was responsible for the commission of offence and, therefore, the conviction and sentence passed against the revision petitioner-accused is justified and no interference is called for.

In the instant case, P.Ws.1 to 5 and 9, who were traveling in the bus, are the eye-witnesses to the occurrence. Their evidence amply establishes that the bus was driven by the revision petitioner at the relevant point of time. From a perusal of the evidence of P.Ws.1 to 5, it is clear that when the bus reached near Bheerpur ghat road, the revision petitioner-accused drove it in a rash and negligent manner, as a result of which the bus turned turtle on its right side, causing instantaneous death of one Anis Fathima, wife of P.W.9, and injuries to several others.

The contention of the learned Counsel for the revision petitioner that had the Motor Vehicle Inspector inspected the tyres of the bus, it would definitely come to the notice as to whether the bus was roadworthy or otherwise, is untenable. When a bus is entrusted to a driver, he must know the mechanical intricacies of the vehicle. A driver should use common sense when driving. If there is slight doubt about the condition of the tyres, the driver should not move the bus. In the instant case, the revision petitioner-accused ought to have driven the offending vehicle in a most cautious manner particularly when the vehicle was hired by a marriage party. Further, even if the road is ghat road or in bad condition, the revision petitioner must concentrate on the road and drive defensively. The evidence of P.W.10-Motor Vehicle Inspector, who inspected the offending vehicle, amply establishes that the accident was occurred not due to any mechanical defects of the vehicle. Therefore, it was only on account of

the rash and negligent driving of the revision petitioner, the accident took place.

On perusal of the entire evidence on record, this Court is of the view that the Courts below have given sufficient and cogent reasons in convicting the revision petitioner-accused. Further, the learned II-Additional Sessions Judge, while re-appreciating the entire evidence, has been liberal in reducing the sentence of rigorous imprisonment to three months for the offence under Section 304-A I.P.C. Therefore, I find no reason to interfere with the said finding. I find no merit in this revision.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

08-06-2015

Gsn