

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Criminal Revision Case No.1008 of 2007

ORDER:

This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 ('the CrPC' for brevity) by the petitioner/ accused is directed against the judgment dated 20.07.2007 of the learned II Additional Sessions Judge, Nalgonda, at Suryapet passed in CrI.A.No.152 of 2006 whereby the learned Judge while dismissing the said appeal of the accused had confirmed the judgment dated 23.08.2006 of the learned Judicial Magistrate of First Class, Suryapet in C.C No.437 of 2004.

The offences with which the accused was charged, the convictions recorded and the sentences imposed against him are sated in the table infra.

S. No.	Section/s of law of the Offence	Substantive sentence of Imprisonment	Fine with In default sentence
1.	304-A IPC	RI one year	Rs.2,000/- IDSI 2 months
2.	338 IPC	RI one year	Rs.1,000/- IDSI 1 month
3.	337 IPC	RI three months	Rs.250/- IDSI 15 days
4.	3 r/w 181 of M V Act	RI one month	Rs.250/- IDSI 15 days
5.	180 r/w 177 of –do-	RI one month	Rs.500/- IDSI 15 days
6.	184 r/w 177 of –do-	RI three months	Rs.500/- IDSI 15 days
7.	185 r/w 177 of –do-	RI one year	Rs.1,000/- IDSI 1 month

The trial Court directed that all the sentences shall run concurrently. The total fine amount imposed is Rs.5,500/-. The said sentences were confirmed by the Court of appeal.

2. I have heard the submissions of the learned counsel for the petitioner/accused and the learned Additional Public Prosecutor representing the respondent/State. I have carefully perused the material record.

3. The learned counsel for the petitioner/accused had contended that PWs.4 to 21 are interested witnesses and are not reliable; and, that the Courts below had failed to take note of the fact that the PWs.1, 7, 14 and 15 have admitted in their evidence that they have not seen the driver of the crime vehicle; and, that the interested testimonies of the other witnesses are not sufficient to come to a safe conclusion in the matter; and, that the Courts below ought to have seen that it is highly doubtful as to whether the accused drove the vehicle at the time of accident; and, that in any view of the matter, the evidence on record is not sufficient to come to a definite conclusion that the accused drove the vehicle in a rash and negligent manner at the relevant time; and, that, therefore, the courts below ought to have acquitted the accused at least by extending a reasonable benefit of doubt.

4. Per contra, the learned Additional Public Prosecutor had submitted that the accused was grossly negligent in driving the crime vehicle; and, that while taking 'ghutka' at the time of driving the vehicle he had left the steering of the vehicle; and, that due to his said rashness and negligence he had lost control over the vehicle in which about 50 persons were travelling at that time; and, that, as a result, the tractor had capsized resulting in the deaths of three persons and injuries to other persons; and, that the Courts below have appreciated the oral and documentary evidence in the right perspective; and, that there is no merit in any one of the contentions raised by the revision petitioner/accused and that the revision is devoid of merit and is liable to be dismissed.

5. Now the points for consideration are: -

1. **Whether the prosecution could bring home the guilt of the accused, beyond all reasonable doubt, for the offences with which he was charged?**
2. **Whether the accused had made out valid and sufficient grounds for his acquittal?**

6. **POINTS:**

6. (a) The case of the prosecution including the gravamen of the charge may be stated, in brief, as follows:

On 28.01.2004 at about 13.10 hours accused was driving the tractor bearing No.AP 24 U 807 – 808 from Rathnapuram Village towards Musi Project guest house. On the way, he drove the tractor in rash and negligent manner and the tractor went to the extreme left side of the road, and as a result the tractor had capsized. The occupants of the tractor about 50 in number fell down. In the said accident, Kummari Pedda Veeraiah and Mosangir Papiiah succumbed on the spot to the injuries sustained by them. One Bhoopathi Sriramulu had succumbed to injuries sustained in the accident, while receiving treatment in the hospital. The other occupants of the tractor viz., Irugu Saidulu, Goddati Saidulu, Mada Venkataiah, Irugu Bixam, Perelli Ramulu, Godeti Krishna, Dasari Sathaiah, Perelli Venkataiah, Bhoopathi Kondaiah, Bhoopathi Venkanna, Rachakonda Saidulu, Bhoopathi Anjamma, Godadati Bixmam, Bandaru Ramaswamy, Nakrekanti Chinna Nagaiah, Mada Lamaiah, Ch.Lingaiah, Nakrekanti Nagaiah, Kati Yadaiah, Bhoopahti Yellaiah and Mada Sriramulu had sustained injuries (simple and grievous). Further the accused did not possess valid driving license and the tractor was also not having fitness certificate and the insurance coverage at the relevant time. On the statement given by PW.2 i.e., Irugu Saidulu, the subject crime was registered and was investigated into. During the course of investigation the witnesses were examined and their statements were recorded, the scene of offence was observed and a

scene of offence panchnama was prepared in the presence of panchas PW.22 and Kasthuri Yellaiah (LW.27). Inquests were held on the dead bodies of the said deceased persons 1 and 2 in the presence of said panchas and the dead bodies were shifted to Government Area Hospital for post mortem examination. On 28.01.2004 another injured Bhoopathi Sri Ramulu had expired at Government Area Hospital, Suryapet while undergoing treatment. The S.I of police, Chevimala (PW28) held inquest over the dead body of the said deceased person in the presence of PWs.23 and 24 and the dead body of the said deceased was subjected to post mortem examination. A requisition was given to the Motor Vehicle Inspector, Suryapet, for inspecting the crime vehicle. The Motor Vehicle Inspector having inspected the crime vehicle had issued a report opining that "the accident did not occur due to any mechanical defect of the crime vehicle". The accused had surrendered before the learned Magistrate on 04.02.2004. After completion of investigation, the charge sheet was laid against the accused.

6. (b) Now it is necessary to examine the evidence brought on record by the prosecution to find out as to whether the said evidence adduced by the prosecution is of required standard and is sufficient to record a finding of guilt of accused for the offences with which he was charged.

6. (c) In all the prosecution had examined 30 witnesses. PWs1, 7, 14 and 15 are said to be eye witnesses to the accident. PW2 is the injured eye witness. His original statement under exhibit P2 set the criminal law into motion. PWs6 to 21 are the injured persons. PW.22 is the panch witness said to have been present at the time of the inquests held on the dead bodies of deceased persons 1 and 2. PWs.23 & 24 are the panch witnesses said to have been present at the time of the inquest held on the dead body of third deceased person. PW28 is Investigation Officer who had held the inquest over the dead body of the

third deceased person. PW 25 is the Doctor who had conducted autopsies on the dead bodies of the said three deceased persons. PWs 26 & 27 are the doctors who have treated the injured persons. PW.29 is the motor vehicle inspector who had given the opinion after examining the crime vehicle. PW30 is the Investigating Officer who had filed the charge sheet. I have gone through the evidence.

6. (d) PWs 3 to 5 are the legal heirs of the deceased persons 1 to 3 and they are not eye-witnesses. PWs.2, 6, 8 to 13, 17 to 21 consistently deposed as under: "They along with some other persons and the three deceased persons i.e., in all about 50 persons, who all belonged to Rathnapuram Village had engaged the tractor of the accused on 28.01.2004 in order to attend Fisheries Board meeting which is to be held at Musi Project, Vallabhapuram after 11.00 am. While they were travelling on the said tractor, and after the said tractor had travelled a distance of half a kilometre from the village of Rathnapuram, the accused left the steering of the tractor for taking 'Judabai ghutkha' and that in the process he had lost control over the tractor and that as a result the tractor had capsized and that all the inmates of the tractor fell down and that in the said accident two persons had died on the spot and that one more person had died while receiving treatment in the hospital and that all the others, who had travelled in the tractor, including them sustained injuries in the said accident." All these witnesses categorically deposed about the injuries respectively sustained by them in the accident. Their medical/injury certificates were also exhibited as exhibits P16 to P36. The post mortem reports of the three deceased persons were exhibited as exhibits P13 to P15. The inquest reports of the deceased persons were exhibited as exhibits P37, 46 and 47. The motor vehicle Inspector's report was exhibited as exhibit P38. The scene of offence panchanama was exhibited as exhibit P40. The rough sketch of the scene of accident was exhibited as exhibit P41. The

photographs of the scene were exhibited as exhibits P42 and P43 and their corresponding negatives were exhibited as exhibits P44 and P45. Exhibit P39 is the original FIR. Apart from examining the above injured witnesses, the prosecution had also examined PW25-the doctor, who conducted the autopsies on the dead bodies of the deceased persons 1 to 3 and also the doctors-PWs26 and 27, who had treated the injured persons in the hospital. The motor vehicle inspector was examined as PW29. All the injured witnesses identified the accused as the driver of the crime vehicle and had in one voice stated that while taking ghutkha he had lost control of the vehicle and that due to his negligence and rashness, the accident had occurred. Their evidence also would show that while driving the over loaded vehicle he had even allowed some passengers to sit by his side. Further, when a charge was levelled against him that at the time he drove the crime vehicle he did not possess a valid driving license, he could not produce a valid driving license and any vehicular documents like the fitness certificate or policy of insurance in respect of the vehicle. No points much less important points were elicited in cross examinations of the witnesses to discredit their evidence.

6. (e) While contending that the accused is entitled to a reasonable benefit of doubt, the learned counsel for the accused placed strong reliance on the following aspects: 'Firstly, he placed reliance on testimonies of PWs1,7,14 and 15 who are said to be eye witnesses to the accident and had contended that they did not either mention the vehicle number in their evidence nor identified the accused as the driver of the crime vehicle. Secondly, PW16, an injured eyewitness, had stated to the effect that the accident had occurred when the persons sitting on either side of the steering started the tractor when accused went to attend a nature's call having stopped the tractor at the canal bund. Thirdly, the inquest panch witnesses PWs 22, 23 and 24 did not support

the case of the prosecution. Fourthly, PWs 2, 6 and 7 had received grievous injuries in the subject accident is not in dispute, but, the x-ray films and x-ray reports of the said persons are not exhibited.' From the very case sought to be advanced based on the evidence of PW16, who had not fully supported the case of the prosecution, it could be noted that the accused was the driver and that there is no dispute about the involvement of the crime vehicle in the accident. In the light of the overwhelming evidence of the other injured eye-witnesses the lone statement of PW16 made some how to help the accused cannot be given any weight by brushing aside the other weighty and credible evidence on record. The other contentions referred to supra pale into insignificance in view of the direct evidence given by the witnesses who are involved in the accident and sustained injuries in the accident and who had no motive or intestedness to implicate the accused in a false case. If really the accused is not the driver of the crime vehicle at the relevant time, there is no reason for the injured witnesses to falsely implicate the accused in the crime by leaving the real culprit.

5. (f) Having carefully analysed and evaluated the evidence this Court finds that the trial Court had rightly found the accused guilty of the various offences with which he was charged. Further, the Additional Sessions Judge while re-appreciating the evidence on record found that the evidence on the record is sufficient to come to a safe conclusion that the accused was the driver of the crime vehicle at the relevant time and that he drove the vehicle in rash and negligent manner and caused the accident resulting the deaths of three persons and injuries to several other persons, who had travelled in the tractor at the time of the accident. Therefore, the Court below had found the accused guilty and confirmed the judgment of the trial Court in all respects. Viewed thus, this Court is satisfied that there is no merit in this Criminal Revision Case.

5. (g) Coming to the alternate contention in regard to measure of sentence also this Court finds that there are no grounds to reduce the sentences to one already undergone or to modify any of the sentences imposed as all the sentences imposed are commensurate to the gravity of the crimes and as the Trial Court had already directed that the sentences shall run concurrently.

6. Therefore, the Criminal Revision case is accordingly dismissed. It is stated that the accused is at large being on bail; therefore, the accused is directed to surrender before the trial Court within two weeks from the date of the receipt of a copy of this order. On failure of the accused to do so, the trial Court shall take steps for his apprehension and send him to prison for serving the remaining period of sentence.

Miscellaneous petitions pending, if any, in this criminal revision case shall stand closed.

M.SEETHARAMA MURTI, J

19th January, 2015
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