

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Criminal Revision Case No. 354 of 2007

Between:

Nampalli Raju

.. Petitioner (s)

And

The State through SHO, Police Station,
LMD Colony (Cr.No.164 of 2001) in
Karimnagar District, rep. by the Public Prosecutor,
High Court at Hyderabad.

.. Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 29.07.2015

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SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to Yes/No
see the fair copy of the Judgment?

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

Criminal Revision Case No. 354 of 2007

Order:

This Criminal Revision Case is filed by the petitioner/accused assailing the judgment, dated 08.09.2006, passed in Criminal Appeal No.115 of 2004 by the learned IV Additional District and Sessions Judge (Fast Track Court), Karimnagar, confirming the judgment, dated 31.07.2004, passed in C.C. No.244 of 2002 by the learned Additional Judicial Magistrate of First Class, Karimnagar, whereby and

whereunder the petitioner/accused was convicted and sentenced to undergo rigorous imprisonment for a period of two years for the offence punishable under Section 304-A IPC; to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for four weeks for the offence punishable under Section 338 IPC and also to pay a fine of Rs.500/- in default to suffer simple imprisonment for two weeks for the offence punishable under Section 337 IPC.

2. The facts, in brief, are as follows. On 30.12.2001 at about 2.45 PM the deceased namely Challuri Srisailam along with his wife – PW.2 was proceeding towards Karimnagar from Devakkapalli village on his Scooter bearing registration No.AP-15-5042 and when they reached near Renukunta Bridge the crime Auto bearing registration No.AP-15V-1640, being driven by the petitioner/accused, came in opposite direction in a rash and negligent manner at high speed and dashed the scooter of the deceased, as a result the deceased sustained grievous head injury and died on the spot. The pillion rider of the scooter, who is the wife of the deceased, also fell down and sustained injuries. Due to the said accident, the Auto turned turtle and the inmates of the Auto, who were examined as PWs.3 to 6, also received injuries. PW.1, who is the brother-in-law of the deceased and who came to the spot after the accident, lodged the complaint with the jurisdictional police, on the basis of which a case in Crime No.164 of 2001 was registered. During the course of investigation, scene of offence panchanama was conducted, inquest was held over the dead body of the deceased in the presence of the witnesses and the body of the deceased was subjected to post-mortem examination. The Motor Vehicle Inspector inspected the crime vehicle and issued report. The Investigating Officer examined the injured eye witnesses and recorded their statements and after completion of investigation he filed charge sheet against the petitioner/accused.

3. Since the petitioner/accused denied the charges, the prosecution has examined PWs.1 to 18 and got marked Exs.P1 to P15. The petitioner/accused denied the evidence on record and no defence evidence was produced on his behalf.

4. The trial Court, on appreciation of the oral and documentary evidence on record, came to the conclusion that the accused committed the offences punishable under

Sections 304-A, 338 and 337 IPC and, accordingly, convicted and sentenced him as stated supra. Since his appeal preferred against the said judgment was dismissed, the petitioner/accused filed this revision.

5. Learned counsel appearing on behalf of the petitioner/accused submitted that no satisfactory evidence was placed on record for holding that the accident took place due to rash and negligent driving of the Auto by the petitioner/accused and, in the absence of there being any cogent evidence, finding the petitioner/accused guilty of the alleged offences is not justified. He further submitted that, even according to the prosecution witnesses, the accident took place due to the negligence on the part of the deceased - scooterist, who came in opposite direction in a rash and negligent manner at high speed and dashed the Auto, due to which he fell down and died on the spot. He further submitted that both the Courts below have not properly appreciated the material and evidence on record and have erroneously convicted the petitioner/accused.

6. Per contra, learned Additional Public Prosecutor submits that both the Courts below, after considering the entire material and evidence on record in proper perspective, have recorded a finding that it is the petitioner/accused who is responsible for the accident, which resulted in death of the deceased and injuries to four persons. He further submits that the evidence on record clinchingly establish that it is the petitioner/accused and he alone is responsible for the accident and, therefore, the conviction and sentence as imposed by the Courts below against the petitioner/accused do not warrant any interference from this Court.

7. The point that arises for consideration is whether the findings of the Courts below can be interfered with?

8. The case of the prosecution is that on 30.12.2001 at about 2.45 PM while the deceased namely Challuri Srisailam was proceeding along with his wife towards Karimnagar from Devakkapalli village on his Scooter bearing registration No.AP-15-5042 and when they reached near Renukunta Bridge, the Auto bearing registration

No.AP-15V-1640, being driven by the petitioner/accused, came in opposite direction in a rash and negligent manner at high speed and dashed the scooter of the deceased, due to which the deceased fell down, sustained grievous head injury and died on the spot. The Auto turned turtle and the inmates of the Auto as well as the wife of the deceased, who was pillion rider, sustained injuries in the incident. The prosecution has relied upon the evidence of the injured eye-witnesses in support of its case that the accident was occurred due to rash and negligent driving on the part of the petitioner/accused.

9. PW.1 is not an eye-witness to the accident. PW.2 is the wife of the deceased and she was traveling as a pillion rider on the Scooter of the deceased on the date and time of accident. It is the evidence of PW.2 that on 30.12.2001 herself and her deceased husband were coming on their Scooter from Devakkapally to Karimnagar and when they reached near Renikunta bridge, the accused, who was known to her being their villager, came in opposite direction driving the Auto at high speed and dashed against the Scooter, due to which the accident took place. The evidence of other injured eye-witnesses, who are examined as PWs.3, 4 and 6, is also to the same effect, except the evidence of PW.5, who stated that he did not say as to how the accident took place. Rest of the prosecution witnesses have deposed that the accident took place due to rash and negligent driving on the part of the petitioner/accused. It is consistently spoken to by them that the petitioner/accused drove the Auto in a rash and negligent manner at high speed and dashed the Scooter of the deceased, due to which the deceased fell down and died on the spot and the inmates of the Auto and pillion rider of the Scooter also received injuries. All the material witnesses were elaborately cross-examined, but nothing concrete was elicited for disbelieving their assertion that the accident took place due to rash and negligent driving on the part of the petitioner/accused. Even though it is contended by the learned counsel for the petitioner/accused that the accident took place due to negligence on the part of the deceased - scooterist, absolutely, no satisfactory evidence is produced in that direction. Both the Courts below have properly appreciated the entire material and evidence on record and found the petitioner/accused guilty of the alleged offences. Upon re-appraisal of the entire evidence and material on record, I see no reasons much less any valid reasons to take any contra view than the view already taken by the Courts below. In the

circumstances, the conviction of the petitioner/accused for the offences under Sections 304-A, 338 and 337 IPC is confirmed.

10. With regard to quantum of sentence, learned counsel for the petitioner/accused submits that since the accident took place as long back as in December 2001, sentencing the petitioner/accused to imprisonment now is not justified. He further submits that since the accident took place due to the acts of omission and commission on the part of both the petitioner/accused and the deceased - scooterist, a lenient view in the matter of imposing sentence may be taken.

11. Having regard to the facts and circumstances of the case and the manner and method in which the accident took place, I consider it just and reasonable to reduce the sentence of two (2) years imprisonment to six (6) months for the offence under Section 304-A IPC. Accordingly, the sentence of two years rigorous imprisonment is reduced to six (6) months rigorous imprisonment, while sustaining the other sentence as imposed by both the Courts below. The sentence of imprisonment shall run concurrently. The period of remand already undergone by the petitioner/accused shall be given set off.

12. Accordingly, the revision case is disposed of subject to the modification in the sentence of imprisonment to the extent as indicated above.

13. As a sequel thereto, the miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

M.S.K. JAISWAL, J.

Date: 29.07.2015

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