

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.37 OF 2013

ORDER:

The present Revision is filed under Sections 397 and 401 Cr.P.C. challenging the order dated 28.12.2012 passed in Crl.Appeal No.75 of 2011 on the file of the Principal Sessions Judge, Karimnagar, wherein and whereunder the findings of the trial court in C.C. No.12 of 2009 on the file of the Judicial Magistrate of First Class (Special Mobile), Karimnagar in convicting the accused for an offence under Section 304-A IPC, was confirmed.

The case of prosecution is as under :

On 22.09.2008 at 3.00 a.m., at Kothapalli village the accused being the driver of lorry bearing No.AP-31-U-4999 drove the same in a rash and negligent manner with high speed and ran over the deceased-Banoth Raju, who was the cleaner of another lorry bearing No.AP-29-T-9829, while he was checking the air to the rear side right tyre of the stationed lorry. Due to the said hit, the deceased died on the spot. Basing on the report of Bodapatla Narender Reddy, a case in Crime No.126 of 2008 of LMD Colony P.S., Karimnagar District, came to be registered for an offence punishable under Section 304-A IPC. After completion of investigation the S.I. of Police filed charge-sheet against the accused which was taken on file by the Judicial Magistrate of First Class (Spl. Mobile) at Karimnagar, for the offence punishable under Section 304-A IPC as C.C. No.12 of 2009.

In support of the case, the prosecution examined P.Ws.1 to 9 and got marked Exs.P-1 to P-9. No oral or documentary was adduced on behalf of the accused. After appreciating the rival arguments, the trial court held that the accused was responsible for the accident and

accordingly convicted him and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.5,000/- in default to suffer simple imprisonment for a period of two months. Challenging the same, the accused preferred Crl. Appeal No. 75 of 2011. After appreciating the rival arguments and the evidence on record, the lower appellate court confirmed the findings of the trial court. Challenging the same, the present Revision is filed.

Learned counsel for the petitioner mainly submits that there is no material available on record to show that the petitioner drove the vehicle in a rash and negligent manner. According to her, the accident took place when the lorry was parked on the road without parking lights and that there was no rash or negligence on the part of the petitioner.

Learned Public Prosecutor opposed the application contending that the suggestions given to the witnesses would reveal that the incident happened due to rash and negligent driving of the driver of the crime vehicle.

As seen from the record, the incident took place on 22.09.2008 at 3.00 a.m., at Kothapalli village. The learned counsel for the petitioner tried to contend that the accident took place due to the absence of parking lights of the vehicle but no evidence was adduced to corroborate the same. It was only suggested to the witnesses that the said accident took place due to absence of parking lights but contra evidence has been adduced. In the absence of any independent evidence to that effect it cannot be said that the driver of the stationed lorry was responsible for the accident.

Coming to the manner in which the accident took place, Ex.P-2-sketch of the scene would disclose the same. In fact, the contents of Ex.P-2 are not seriously challenged by the counsel for the accused.

The issue as to whether the petitioner was the driver of the vehicle at the time of accident stands established since the record clearly discloses that the accused himself went to police station after the accident and surrendered before the police. Since both the courts have appreciated the evidence and concurrently found that the petitioner was the driver of the crime vehicle and that the accident took place due to his rash and negligent driving, the same warrants no interference.

At this stage, the learned counsel for the petitioner submits that the accident took place in the year 2008 and the petitioner will be put to great hardship if he is sent to Jail. But at the same time it is to be noted that due to rash and negligent driving of the petitioner, one person lost his life. It is true that the accident took place in the year 2008 and the petitioner was going around the courts since last seven years. Hence, taking into consideration the age of the petitioner at the time of the accident and also the time which lapsed from the date of accident, I am of the view that ends of justice would be subserved if the sentence awarded to the petitioner is reduced from six months to two months. The sentence of imprisonment already undergone by the petitioner shall be given set off.

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

Date:11.03.2015

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