

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.1610 OF 2007

ORDER:

This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the judgment dated 20.11.2007, passed by the I Additional Sessions Judge, at Khammam, in Criminal Appeal No.15 of 2006, whereunder and whereby the conviction passed against the revision petitioner herein for the offence punishable under Section 304-A of the Indian Penal Code, 1860 (for short, 'I.P.C') vide the judgment dated 03.03.2006 in C.C.No.170 of 2003 by the Judicial Magistrate of First Class, Yellandu, was confirmed and sentence was modified.

2. The revision petitioner herein is the accused, whereas respondent is the complainant in C.C.No.170 of 2003 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the C.C. before the trial Court.

3. The case of the prosecution is that on 17.05.2003 at about 12 noon, one person by name Boda Eeru (hereinafter referred to as 'the deceased') was proceeding in Mutyalampadu X-roads on his cycle and at that time, accused who was driving the lorry tipper bearing No.MP.23.DA.7700, drove it in a rash and negligent manner and dashed against the cycle of the deceased. Due to the hit, the deceased fell down and the lorry ran over his thigh, due to which he sustained grievous injuries. Thereafter, the deceased was shifted to Singareni Colliery Hospital, Kothagudem, where he died while undergoing treatment. On report, police Tekulapaly registered a case in Cr.No.47 of 2003 for the offence punishable under Section 304-A I.P.C. During the course of investigation, the Investigating Officer-PW.5 visited the scene of offence, examined the witnesses, prepared

the rough sketch of the scene of offence and later, conducted inquest over the dead body of the deceased in the presence of mediators. The doctor, who conducted the post-mortem examination, gave opinion that the deceased died due to multiple grievous injuries. Thereafter, the Investigating Officer after completing the investigation and arresting the accused, filed charge sheet into the Court.

4. The learned Judicial Magistrate of First Class, Yellandu, took cognizance of the case and framed a charge against the accused for the offence punishable under Section 304-A I.P.C. During trial, on behalf of the prosecution, PWs.1 to 5 were examined and Exs.P1 to P7 got marked.

5. After closure of the prosecution evidence, accused was examined putting the incriminatory material deposed against him. The accused denied the same and reported no oral or documentary evidence on his behalf. After hearing the arguments and after perusing the evidence available on record, the learned Magistrate convicted the accused and sentenced him to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/- for the offence punishable under Section 304-A I.P.C.

6. Aggrieved by the conviction and sentence passed by the trial Court, accused preferred Criminal Appeal No.15 of 2006 before the I Additional Sessions Judge, Khammam, where the Appellate Court after considering the oral and documentary evidence, after hearing both sides and after perusing the findings of the trial Court, confirmed the conviction and modified the sentence of the trial Court by reducing it from one year to six months.

7. Being aggrieved by the finding of the Appellate Court passed in Criminal Appeal No.15 of 2006, accused preferred the present revision case.

8. The learned counsel appearing for the revision petitioner/accused argued that the accused is aged about 35 years, he is the sole bread winner of his family and nodoubt Appellate Court has taken a lenient view, but prayed the Court to allow the revision case by reducing the sentence.

9. On the other hand, the learned Public Prosecutor appearing for the State of Telangana argued that the Appellate Court has already taken a lenient view and reduced the sentence from one year to six months and therefore, the finding of the Appellate Court needs no interference and prayed the Court to dismiss the revision case.

10. Now, the point for determination is --

Whether the revision petitioner herein is entitled to set aside the conviction and sentence passed by both the Courts below for the offence punishable under Section 304-A I.P.C, as prayed for or not?

11. **P O I N T**: As per the evidence on record on 17.05.2003, the deceased died in a motor vehicle accident due to rash and negligent driving of the accused. The evidence of PWs.1 to 5 clinchingly proved the offence against the accused and the Appellate Court after considering the oral and documentary evidence reduced the sentence imposed against the accused from one year to six months.

12. The learned counsel for the revision petitioner/accused contended that the accused is the only sole bread winner of his family; that the evidence of PWs.3 & 4 has not supported the case of prosecution; and that he has not committed any offence earlier and prayed the Court to take a lenient view by reducing the sentence. Therefore, taking into consideration the request of the accused and the facts and circumstances of the case, I am of the view that the quantum of sentence shall be reduced to three months from six months for the offence punishable under Section 304-A I.P.C and as such, I am

inclined to dispose of the revision as under.

14. The conviction recorded against the revision petitioner/accused by the Judicial Magistrate of First Class, Yellandu, in C.C.No.170 of 2003 for the offence punishable under Section 304-A I.P.C as confirmed by I Additional Sessions Judge, Khammam, in Criminal Appeal No.15 of 2006 is hereby confirmed. But, the sentence of imprisonment of six months as modified by the I Additional Sessions Judge, Khammam in Criminal Appeal No.15 of 2006 for the offence is hereby modified and reduced to three months. The sentence of fine imposed for the offence is not interfered with.

15. Accordingly, the Criminal Revision Case is disposed of.

16. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

Date: 26.02.2015
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ANIS, J