

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.174 OF 2008

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ORDER:
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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 05.02.2008, passed by the III Additional District & Sessions Judge, (Fast Track Court), Ongole, in Criminal Appeal No.107 of 2007, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Section 304-A of the Indian Penal Code (for short, 'I.P.C') vide the judgment dated 12.09.2007 in C.C.No.197 of 2004 by the Principal Junior Civil Judge, Addanki, FAC-Additional Judicial Magistrate of First Class, Addanki, was confirmed.

2. The revision petitioner herein is the accused, whereas respondent is the State in C.C.No.197 of 2004 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 brief facts of the case are that on 25.07.2004 at about 9:00 p.m, the deceased and her father-PW.1 arrived to the bus stand centre, Addanki, for purchasing bananas. After that, they came on the southern side of the in-gate of the bus stand to go to their house. At that time, the accused who was the driver of R.T.C bus bearing No.AP.11.Z.404 drove the bus in a rash and negligent manner at high speed without taking any precautions towards the in-gate side, where the deceased and PW.1 were standing, due to which the bumper of the bus hit the deceased, resulting her instantaneous death. PW.1 escaped unhurt. After the accident, the accused got down the bus and ran away from the spot, due to fear. PWs.4, 5 and others witnessed

the accident. On the same day, PW.1 gave a statement to the Sub-Inspector of Police, Addanki, who recorded the same and registered the case in Cr.No.85 of 2004 for the offence punishable under Section 304-A of I.P.C and investigated the case. During the course of investigation, he recorded the statements of all the witnesses, conducted inquest in the presence of mediators and sent the dead body for post-mortem examination. After receiving the post-mortem certificate and other certificates, and after completion of investigation, he filed the charge sheet into the Court.

4. The learned Judicial Magistrate of First Class took cognizance of the case and framed a charge for the offence punishable under Section 304-A of I.P.C against the accused. During trial, on behalf of the prosecution, PWs.1 to 10 were examined and Exs.P1 & P9 were got marked.

5. After closure of the prosecution evidence, accused was examined under Section 313 Cr.P.C putting the incriminatory material deposed against him. The Accused denied the incriminatory material and reported no oral or documentary evidence on his behalf. After hearing arguments and after perusing the record, the learned Magistrate convicted the accused for the offence punishable under Section 304-A I.P.C and sentenced him to undergo Rigorous Imprisonment for a period of six months.

6. Aggrieved by the conviction and sentence passed by the trial Court, accused preferred Criminal Appeal No.107 of 2007 before the III Additional District & Sessions Judge, (Fast Track Court), Ongole, where the Appellate Court after hearing the arguments and considering the evidence on record, dismissed the appeal by confirming the conviction and sentence passed by the trial Court.

7. Being aggrieved by the judgment of the Appellate Court passed in Criminal Appeal No.107 of 2007, the accused preferred the present revision case.

8. The learned counsel appearing for the revision petitioner/accused argued that there is no rash and negligence on the part of the accused in driving the vehicle; that as per the manner in which the accused drove the bus to in-gate by taking the bus on culvert, there is no possibility for the accused to proceed with high speed and there are no eye witnesses to the accident, who spoke about the rash and negligent driving of the accused and therefore, prayed the Court to allow the revision case by relying upon the case law reported in

Naresh Giri v. State of Madhya Pradesh^[1].

9. On the other hand, the learned Public Prosecutor appearing for the State argued that accused was rash and negligent while driving the bus, dashed the deceased, due to which she died on the spot; and that the evidence of all the witnesses clearly established the same. Therefore, both the Courts rightly held that the accused was at fault and convicted him and prayed the Court to dismiss the revision case.

10. Now, the point for determination is --

Whether the prosecution could bring home the guilt of the accused for the offence punishable under Section 304-A of I.P.C, with which he is charged?

11. **P O I N T**: A perusal of the oral and documentary evidence shows that the accused was rash and negligent while driving the bus and the evidence of PW.1, further strengthens the same. A perusal of Ex.P4-inquest report prepared in presence of the inquest mediators also shows that the driver was negligent while driving the bus without blowing the horn and he brought the bus into the bus stand and dashed

the deceased. It is also stated by the witnesses that the deceased is a physically handicapped girl. Daily, she comes there and begs to maintain her family members. If the contents of Ex.P4-inquest report are taken into consideration, the accused must have been seeing this girl daily as she used to beg near the bus stand. The evidence of eye witnesses also clearly established that the accused is responsible for cause of death due to his rash and negligent driving. There is no dispute of the fact that on the date of accident, the accused drove the bus bearing No.AP.11.Z.404 and PW.3, who worked as conductor of the same bus, clearly stated that accused was driving the crime vehicle and he dashed the deceased with the vehicle and the deceased received multiple injuries to her vital parts and died.

12. Thus, after considering the evidence available on record, it is clear that the accused while driving the R.T.C bus on the date of incident, caused the death of the deceased by his sheer negligence and accused due to lack of care, which he is required to take, has not taken and due to his negligence only the deceased died on the spot and in these circumstances, the trial Court already took a lenient view and awarded sentence only for a period of six months and the Appellate Court confirmed the same. Thus, the prosecution has succeeded to prove that the accused was rash and negligent, due to which the accident occurred and also proved the guilt of the accused for the offence punishable under Section 304-A of I.P.C beyond all reasonable doubt. Therefore, I am of the view that the findings of the trial Court and Appellate Court needs no interference of this Court.

13. Accordingly, the Criminal Revision Case is dismissed confirming the judgment dated 05.02.2008, passed by the III Additional District & Sessions Judge, (Fast Track Court), Ongole, in Criminal Appeal No.197 of 2004.

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

ANIS, J

Date: 03.02.2015
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[\[1\]](#) 2008 (1) ALD CrI. 145 SC