

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.472 OF 2008

-

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 12.03.2008, passed by the III Additional District & Sessions Judge (Fast Track Court), Mahabubnagar at Gadwal, in Criminal Appeal No.62 of 2007, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Sections 304-A, 338 and 337 of the Indian Penal Code, 1860 (for short, 'IPC') vide the judgment dated 27.02.2007 in C.C.No.143 of 2004 by the Judicial Magistrate of I Class, Alampur, was confirmed.

2. The revision petitioner herein is the accused, whereas respondent is the State in C.C.No.143 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 04.06.2003, PW1 lodged a complaint to the police stating that on 03.06.2003 at 10.00 p.m. he along with his relatives went to Zilledadinne to attend marriage of his brother-in-law's daughter in a tractor bearing No.AP22U 5638, 39 and after marriage while returning to Melachervu village on 04.06.2003 and at

4.00 p.m. when they reached near Chagapur village, the driver of the tractor drove the vehicle in a rash and negligent manner with high speed and lost control over the vehicle, resulting which some of the occupants of the tractor received grievous and simple injuries and one person died while undergoing treatment. After receiving the complaint, the Sub-Inspector of Police registered the case in Crime

No.29 of 2003, took up the investigation and visited the scene of offence. The S.I. of Police also conducted the panchanama of the scene of offence in the presence of PWs 9 and 10 and prepared the crime details form including rough sketch of the scene of offence. After knowing the death of the deceased, the S.I. of Police issued alteration memo changing the section of law to Section 304-A IPC and conducted inquest over the dead body in the presence of PWs 11 and 15. PW12 the doctor conducted the post-mortem examination over the dead body of the deceased. On 20.06.2003, the accused surrendered to the police. After receiving the wound certificates, post-mortem report and other reports and after completion of investigation, the Investigating Officer filed the Charge sheet into the Court.

4. The learned Judicial Magistrate of First Class took cognizance of the case and examined the accused under Section 251 Cr.P.C. for the offence punishable under Sections 304-A, 337, 338 IPC against the accused. During trial, on behalf of the prosecution, PWs.1 to 17 were examined and Exs.P1 to P14 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 the arguments and after perusing the record, the learned Magistrate convicted the accused for the offence punishable under Sections 304-A, 338 and 337 IPC and sentenced him to undergo simple imprisonment for one year and to pay fine of Rs.1000/- for the offence punishable under Section 304-A IPC and also sentenced him to pay fine of Rs.1000/- for the offence punishable under Section 338 IPC and further sentenced to pay fine of Rs.500/- for the offence punishable under Section 337 IPC.

6. Aggrieved by the conviction and sentence passed by the trial Court, accused preferred Criminal Appeal No.62 of 2007 before the III Additional District & Sessions Judge (Fast Track Court), Mahabubnagar at Gadwal, 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.62 of 2007, the accused preferred the present revision case.

8. The learned counsel appearing for the revision petitioner/accused argued that there is no specific evidence about the rash and negligent driving of the driver of the tractor; that mere going in a high speed will not be called as 'rash and negligent'; that the death of the deceased occurred ten days after the accident; that the trial Court erred in believing the evidence of PWs 1 to 5; that some of the witnesses could not identify the driver of the vehicle involved in the accident; that none of the witnesses have stated that the driver of the vehicle drove the vehicle in a rash and negligent manner, thereby the trial Court ought to have acquitted the accused; that non-examination of the vehicle of the accused is fatal to the prosecution; that the prosecution failed to prove the guilt of the accused beyond all reasonable doubt, and therefore, the revision petitioner is entitled to set aside the judgments of both the Courts below.

9. On the other hand, the learned Public Prosecutor appearing for the State argued that the evidence of PWs 1 to 7 is cogent and coherent and corroborated with each other; that the evidence of PWs 1 to 5 specifically shows that on the date of accident, the driver of the tractor drove the vehicle in a rash and negligent manner and due to which, the accident was caused and some of the inmates of the

tractor received injuries and one of them also died; that the identification of the driver was proved; that in his Section 313 Cr.P.C. examination, the accused has not denied the fact that he did not drive the tractor on that day, and finally prayed the Court to dismiss the revision case.

10. Now, the point for determination is --

Whether the revision petitioner is entitled to set aside the concurrent judgments passed by the trial Court and the appellate Court for the offence punishable under Sections 304-A, 338 and 337 IPC?

11. **Point:**

A perusal of the evidence of PWs 1 to 7 shows that they went to Ziledadinne to attend the marriage of their relatives by engaging a tractor and on their return, when the vehicle reached near Chagapur village, the driver of the tractor drove the vehicle at high speed, as a result the tractor-trolley fell on them, due to which they received injuries and one of them was died while undergoing treatment. The said witnesses identified the accused who drove the tractor on that day. The evidence of injured eyewitnesses is consistent and reliable and nothing has been elicited to disprove their evidence in the cross-examination by the defence. Further, the evidence of the injured witnesses is supported by the medical evidence. The doctor, who examined as PW12, also stated about the injuries received by PW1, PW3 and PW5. PW17, who received the requisition from the Station House Officer, conducted post-mortem over the dead body of one Sarojamma and gave opinion that she died due to head injury. The evidence of other witnesses is formal in nature.

12. Further, it is not the case of the accused that he was not the driver of the crime vehicle on the date of accident. Moreover, one of the witnesses-PW6 also stated that the accused was in drunken

condition at the time of accident. In view of the credible evidence of the prosecution witnesses, the defence taken by the accused that the injured has fallen from the vehicle, cannot be accepted.

13. As per the evidence of prosecution witnesses, the revision petitioner/accused was rash and negligent while driving the vehicle, due to which the accident was occurred and PWs 1 to 5 received injuries and one person by name Sarojamma died. Therefore, the prosecution has established the alleged accident and the guilt of the accused for the offence punishable under Section 304-A, 338 and 337 IPC beyond all reasonable doubt. Hence, the findings of both the Courts below need no interference as the revision petitioner has not made out any case. Accordingly, the point is answered against the revision petitioner.

14. In the result, the Criminal Revision Case is dismissed confirming the judgment dated 12.03.2008, passed by the III Additional District & Sessions Judge (Fast Track Court), Mahabubnagar at Gadwal, in Criminal Appeal No.62 of 2007.

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

ANIS, J

Date: 12.02.2015

Anr