

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.424 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 13.03.2008, passed by the VII Additional District and Sessions Judge, Ongole, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Section 304-A IPC, vide the judgment dated 19.01.2007 in C.C.No.307 of 2002 by the Additional Munsif Magistrate, Kandukur, was confirmed.

2. The revision petitioner herein is the accused and respondent herein is the complainant in C.C.No.307 of 2002 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 in brief is that on 25.06.2002 deceased Guntaka Audemma was going on the left side of the road towards Polireddypalem village along with one Guntaka Venkateswarlu. At that time, the driver of the motor cycle bearing No.AEE 1260 was proceeding towards Podili side from Kondapi and when he reached the rice mill of Kudimila Tirupathaiah, he drove the vehicle in a rash and negligent manner and dashed the deceased; due to which, she fell down and sustained bleeding injuries to her head and legs. Immediately she was taken to the hospital of PW.2 and from there she was shifted to Government hospital, Ongole. While undergoing treatment she died on 26.06.2002. PW.3 who is the son of the deceased gave a complaint to the police and the same was registered as a case in Cr.No.26 of 2002 against the petitioner. The Investigating Officer recorded the statement of witnesses and conducted inquest on 27.06.2002 in the presence of

mediators and after receiving post-mortem report and completing investigation, he filed charge sheet into the Court.

4. Learned Additional Munsif Magistrate, Kandukur, took cognizance of the case and framed a charge for the offence punishable under Section 304-A IPC against the accused. During trial, to prove the case of prosecution, PWs.1 to 8 were examined and Exs.P1 to P12 were got marked.

5. After closure of the prosecution evidence, accused were examined under Section 313 Cr.P.C putting all incriminating material available against him. Accused denied the material evidence and reported no oral or documentary evidence on his behalf.

6. The trial Court, after hearing the arguments and after perusing the record, convicted the accused for the offence punishable under Section 304-A IPC and sentenced him to undergo a Simple Imprisonment for a period of three months and to pay a fine of Rs.500/-, and in default of payment to undergo Simple Imprisonment for a period of one month.

7. Aggrieved by the conviction and sentence passed by the trial Court, accused preferred Criminal Appeal No.11 of 2007 before the VII Additional District and Sessions Judge, at Ongole, where the appellate Court, after considering the evidence on record, confirmed the conviction and sentence and dismissed the appeal against him.

8. Being aggrieved by the judgment of the appellate Court dated 13.03.2008 passed in Criminal Appeal No.11 of 2007, the accused preferred the present revision case.

9. Learned counsel appearing for the revision petitioner/ accused argued that except the evidence of PW.3 there is no other witness who corroborated and stated that the accused was rash and negligent while driving the motor cycle. It is also argued that the

evidence of PWs 1 and 4 is not helpful to the prosecution and they are not eye-witness to the incident. It is also argued that PW.3 who is the son of the deceased, will naturally have the interest to convict the accused and PW.'3 evidence cannot be accepted in toto and he has not seen the manner of the accident as the said vehicle came from the back side of the deceased and also prayed the Court that accused also received the injuries in the accident. Now the accused is about 56 years old, a lenient view may be taken regarding the sentence.

10. On the other hand, the learned Public Prosecutor appearing for the State argued that both the Courts gave concurrent finding regarding the manner of the accident in which the deceased died. Further the trial Court held that due to rash and negligent driving of the driver the accident was taken place and the findings of the trial Court needs no interference.

11. Now, the point for determination is --

Whether the petitioner is entitled to the relief of setting aside the judgment in Crl.A.No.11 of 2007 dated 13.03.2008 of VII Additional District and Sessions Judge, Ongole as prayed for?

12. **POINT:**

A perusal of the evidence shows that PW.1 who is one of the eye-witness has not supported the prosecution case and has turned hostile. PW.3 who is the son of the deceased clearly stated that in the accident his mother sustained injuries to her head and he was taken to the hospital of PW.2 at Kondapi village and from there she was shifted to Government hospital where she succumbed to injuries. The evidence of PW.3 clearly establishes the identity of the accused and also the accident was due to rash and negligent driving of the vehicle by the accused. In that accident, his mother died subsequently. PW.4 who is the companion of the accused has not supported the prosecution case. The other witnesses examined by the prosecution proved about injuries

received by the deceased and post-mortem certificate issued after her death clearly shows that the deceased died due to the injuries and after considering the evidence of PW.3 both the Courts clearly held that the accused is the driver of the motor cycle at the time of the accident and he drove the vehicle in a rash and negligent manner in which the deceased received head injuries and other injuries and died while undergoing treatment. Therefore, the concurrent findings of both the Courts needs no interference by this Court.

13. The learned counsel appearing for the petitioner argued that as the accused also received the injuries and now the accused is about 56 years a lenient view may be taken.

14. Considering the facts and circumstances of the case, I am of the view that a lenient view can be taken in favour of the revision petitioner by reducing the sentence of imprisonment. Therefore, I am inclined to dispose of the revision as under:

The conviction recorded against the revision petitioner by the Additional Munsif Magistrate, Kandukur in C.C.No.307 of 2002 as confirmed by VII Additional District and Sessions Judge, Ongole in CrI.A.No.11 of 2007 is hereby confirmed. But, the sentence of simple imprisonment of three months imposed by the trial Court is hereby modified and reduced to one month.

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

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

ANIS, J

Date:11.02.2015
PNV

