

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1431 of 2007

JUDGMENT:

1. This revision is filed by the petitioner-accused against the judgment dated 11.10.2007 passed by the VI Additional District & Sessions Judge (FTC), Nizamabad at Kamareddy in Crl.A.No.68 of 2004.

2. Brief facts of the case are as follows:

On 9.4.2002 in the evening hours, the deceased-Thulasiram and P.W.1 were going on cycle towards Boggu gudisa thanda. The deceased was paddling the cycle and P.W.1 was a pillion rider. At the same time, P.W.2 and P.W.3 were proceeding towards Boggu-gudisa thanda from Annasagar village by foot. P.W.4-grand son of the deceased was going with his auto from Ahmednagar to Yellareddy via Annasagar gate. While the cycle of the deceased crossed Annasagar road corner, RTC bus driven by the petitioner came in opposite direction and dashed against the cycle, as a result of which both the deceased and P.W.1 fell down. The deceased was found in unconscious stage. P.Ws.2 and 3 witnessed the accident. Meanwhile P.W.4 reached the spot and shifted the deceased and P.W.1 to the hospital. But the deceased succumbed to injuries on the same day. P.W.4 lodged a complaint, basing on which a case was registered and investigated into. After completion of the investigation, charge sheet was filed against the petitioner-accused.

3. The learned Special Judicial First Class Magistrate (Mobile) at Kamareddy took the case on file as C.C.No.188 of 2002 for offence under

Sections 304-A and 337 IPC, and examined the accused under Section 251 Cr.P.C., for which the accused pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 6 were examined and Exs.P1 to P3 were marked on behalf of the prosecution. Exs.D1 to D3 were marked on behalf of the accused.

5. On appreciation of both oral and documentary evidence, the trial Court found the accused guilty for the offence under Sections 304-A and 337 IPC convicted and sentenced him as follows:

- 1) The petitioner-accused was convicted and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for two months for the offence under Section 304-A IPC;
- 2) He was also convicted and sentenced to undergo simple imprisonment for a period of three months for the offence under Section 337 IPC;
- 3) Both the sentences shall run concurrently;

Aggrieved by the same, the petitioner-accused filed Crl.A.No.68 of 2004 before the VI Additional District & Sessions Judge (FTC), Nizamabad at Kamareddy. The said appeal was dismissed. Hence the petitioner filed this revision.

6. The learned Counsel for the petitioner submitted that there is no sufficient evidence to prove that the petitioner was driving the vehicle at the time of accident and that the accident was not due to the rash and negligent driving of the petitioner and that there is no proof to the effect that the deceased died of accident and that the panch witnesses turned hostile and that the sentence imposed by the trial Court is very harsh.

7. Learned Additional Public Prosecutor submitted that there are no grounds to interfere with the judgment under appeal.

8. From the material on record, it is evident that at the time of examination of the petitioner before the trial Court under Sections 251 Cr.P.C. and 313 Cr.P.C. except saying that his vehicle did not dash against the accused and that no accident took place with his vehicle, he did not say that he was not driving the crime vehicle at the time of accident. He did not adduce any evidence to establish that he was not the driver of the vehicle at the time of accident. The evidence of P.Ws.1 to 3, who are eye witnesses to the accident, clearly establishes that the petitioner was the driver of the vehicle in question at the time of accident. Nothing was elicited from the cross-examination of P.Ws.1 to 3 to disbelieve their evidence. On appreciation of evidence, both the Courts below convicted the accused.

9. In the facts and circumstances of the case and in view of the concurrent findings of both the Courts below, this Court is not inclined to interfere with the judgment under revision.

10. At this stage, the learned Counsel for the petitioner prayed for reducing the sentence of imprisonment.

11. In view of the above submission and taking into consideration that the present case pertains to the year 2002, this Court is inclined to modify the sentence.

12. In the result, the conviction recorded by the Courts below against the petitioner-accused for the offence under Sections 304-A and 337 IPC is confirmed. However, the sentences of imprisonment imposed under

Sections 304-A IPC and 337 IPC, are set aside, while maintaining the sentence of fine imposed for the offence under Section 304-A IPC. Further, the petitioner-accused is directed to pay additional fine of Rs.9,000/- (Rupees Nine Thousand only) for the offence under Section 304-A IPC, in default to undergo simple imprisonment for three months and also to pay fine of Rs.500/- for the offence under Section 337 IPC, in default to suffer simple imprisonment for one month.

13. Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

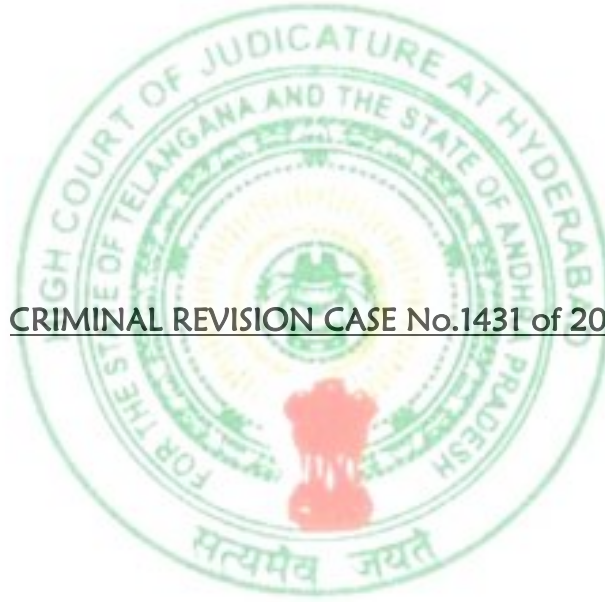
Dated:27th August, 2016

Nn

JUSTICE RAJA ELANGO



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27.8.2016

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