

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.537 of 2008

JUDGMENT:

1. This revision case is filed by the de facto complainant against the Judgment dated 25.9.2006 passed by the VIII Additional District & Sessions Judge (FTC), Vijayawada, Krishna District, in S.C.No.119 of 2006.

2. The case of the prosecution is as follows:

The accused and the deceased are the best friends and both of them are Auto rickshaw drivers. The accused is plying goods auto rickshaw. The deceased was doing money-lending business for interest apart from running auto rickshaw. The accused used to take hand loans from the deceased. The accused and the deceased used to altercate with regard to loan amounts due by the accused. The accused purchased goods auto rickshaw on finance and the deceased lent an amount of Rs.50,000/- without any security. Subsequently, the deceased used to pressurize the accused to clear off the loan amount with interest. But the accused used to avoid repayment of the amount. The accused decided to put an end to the life of the deceased in order to evade the payment of loan amount. The accused went to the house of the deceased situated at Kanuru village on 14.1.2006 at 4 p.m. and asked him to go to Joseph Thambi Tirunalla at Pedavutapalli village. The deceased and the accused went on a motor cycle driven by the deceased. At first, they went to Besant Road, Governorpet, Vijayawada and later on, came to Poranki. They reached Nidamanuru petrol bunk through Donka Road. The deceased and the accused consumed liquor at Brandy shop near Nidamanuru Petrol Bunk. Both of them consumed liquor. There was a conversation between the deceased and the accused with regard to the loan amount. Both of them

raised their voices loudly and the accused threatened the deceased with dire consequences. Later, the deceased and the accused went to Joseph Thambi Tirunalla at Pedavutapalli village. They spent time at Pedavutapalli village upto 10 p.m. While they were returning to Kanuru, on the way, they consumed liquor at Gannavaram village. Pursuant to his preplan, the accused picked up one stick on the way so as to beat the deceased and to kill him since the deceased was in drunken state. The deceased asked the accused as to why he secured stick and the accused made the deceased to believe that the stick would be useful if culprits attack in donka road. On the intervening night of 14/15.1.2006, the deceased and the accused reached the lands of Chalasani Subba Rao in Sarabhaiah Donka Road of Kanuru on the motor cycle being driven by the deceased. The accused beat the deceased with the stick on his head on his back side, as a result of which, the deceased lost control over the vehicle and both fell into the road side drain along with the motor cycle. The accused fell on motor cycle silencer and sustained burn injury on his stomach. The accused beat the deceased on his head with the stick repeatedly with an intention to kill him so as to evade the payment of loan amount. When the deceased was unconscious the accused sat on the back of the deceased and pressed the head of the deceased to the ground. As a result, the deceased died instantaneously. The accused had stolen one Nokia cell phone from the possession of the deceased. The accused threw away the stick into the sugarcane fields. The accused went to the house of L.W.12 and asked water. L.W.12 supplied water. When the accused asked to take shelter in the factory of L.W.12, he refused. On the way at Prasadampadu, he stopped empty auto of L.Ws.3 and 4 and boarded it. The accused went to the house of his sister-L.W.10 situated at Kanuru at about 1.30 hours and requested her to take him for treatment to any hospital. On the way to

the house of L.W.10, the accused informed the auto drivers L.Ws.3 and 4 that he scuffled with his friend and sustained injuries. L.W.10 and her husband-L.W.11 admitted the accused in the hospital of L.W.9. The accused informed to L.W.9-RMP doctor that he sustained injuries in a road accident. On 15.1.2006 in the morning, the accused went to Penamaluru police station and gave false statement to L.W.25 stating that he sustained injuries in a motor accident and the deceased also sustained injuries and died on the spot. Basing on the said report, a case was registered and investigated into. The father of the deceased made allegations against the accused stating that the accused killed the deceased and created it as an accident. After completion of the investigation, charge sheet was filed against the accused for the offence under Sections 302, 379 and 201 IPC before the I Metropolitan Magistrate, Vijayawada. The learned Magistrate took the case on file and committed the same to the Court of Sessions, Metropolitan Division, Vijayawada. The learned Metropolitan Sessions Judge, Vijayawada numbered the same as S.C.No.119 of 2006 and made over the same to the learned VIII Additional District & Sessions Judge (FTC), Vijayawada for disposal.

3. The trial Court framed charges for the offence under Sections 302, 379 and 201 IPC against the accused, read over and explained to him, for which he pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 25 were examined and Exs.P1 to P29 and M.Os.1 to 6 were marked on behalf of the prosecution. Ex.D1 to D3 were marked on behalf of the accused.

5. On appreciation of oral and documentary evidence, the trial Court found the accused not guilty for the offence under Sections 302, 379 and

201 IPC, acquitted him. Aggrieved by the same, the father of the deceased filed this revision.

6. Learned Counsel for the petitioner submitted that the accused killed the deceased and created it as an accident that the evidence on record clearly establish the commission of the offence and the circumstances stated by the prosecution witnesses clearly establishes the case of the prosecution and that the trial Court has failed to appreciate the evidence in a proper perspective.

7. Learned Counsel for the 1st respondent-accused submitted that the Court below has appreciated the evidence in a proper perspective and that the circumstantial evidence adduced by the prosecution would not point out the guilt of the accused beyond all reasonable doubt and that the judgment under appeal does not warrant any interference.

8. It is the case of the prosecution that P.Ws.3 and 4, who are auto drivers, deposed that the accused informed them that his friend poured acid on his stomach and that the accused informed that there was a quarrel between him and the deceased and in that quarrel, he sustained injuries. The trial Court disbelieved the evidence of P.Ws.3 and 4. The trial Court found that P.Ws.3 and 4 are planted as witnesses in order to show the case as a murder case. According to the evidence of P.W.3, there was a quarrel between the deceased and accused, in which the deceased poured acid on the accused. But he has not stated the same thing in his 161 Cr.P.C. statement. Hence, the trial Court came to conclusion that the evidence of P.W.3 is highly unbelievable. The trial Court believed the complaint lodged by the accused at the first instance, in which he stated that while the

accused was going on the bike driven by the deceased, accident took place and they sustained injuries.

9. Further the evidence of the doctor, who conducted autopsy categorically goes to show that there is every possibility for the deceased to hit himself to the handle of the motor cycle due to sudden obstruction or due to fall of the motor cycle on his face. Further, it is evident that all the injuries of the deceased are on his face and head and they might be caused due to hitting of hard substance by fall from motor cycle. Therefore, no adverse inference can be drawn against the accused.

10. Apart from the above, the trial Court came to the conclusion that the complaint lodged by the accused at the first instance clearly indicates the manner in which himself and the deceased sustained injuries. The accused had not suppressed any fact before the police. The circumstances in the present case do not point out the guilt of the accused beyond all reasonable doubt.

11. Considering the evidence on record and the judgment under revision, this Court is of the view that the judgment of the trial Court does not suffer from any irregularity or illegality warranting interference by this Court.

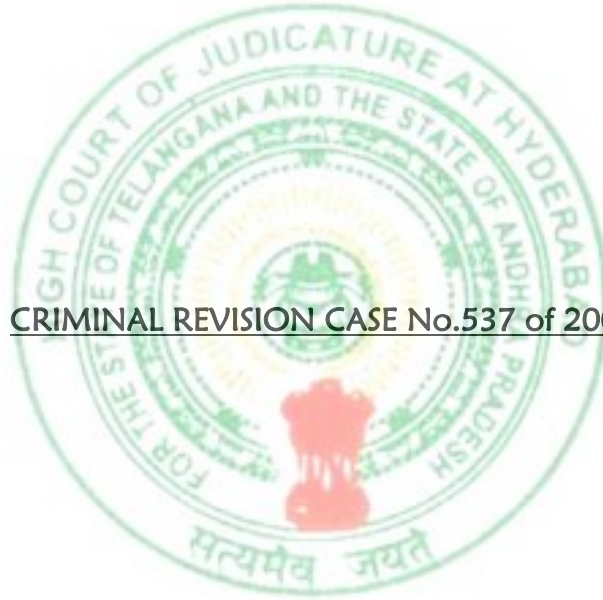
12. Accordingly, the Criminal Revision Case is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Dated:26th August, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO



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26.8.2016

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