

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.656 of 2008

JUDGMENT:

1. This revision case is filed by the petitioner-accused challenging the judgment dated 10.4.2008 passed by the Sessions Judge, Warangal, in CrI.A.No.127 of 2005.

2. Brief facts of the case are as follows:

On 16.12.2002, after attending the labour work, while the deceased was returning on his cycle from Jangaon to Narayanapuram, at about 7 p.m., the accused, who is the driver of tipper, drove the vehicle in a rash and negligent manner and dashed against the cycle of the deceased near the shop of P.W.1, as a result of which, the deceased fell down and received severe injuries. He succumbed to injuries while undergoing treatment. P.W.1 lodged a complaint before the police, basing on which, a case was registered against the petitioner-accused and investigated into. After completion of the investigation, charge sheet was filed against the petitioner for the offence under Section 304-A IPC before the Judicial First Class Magistrate, Jangaon. The learned Magistrate took cognizance of the same and numbered it as C.C.No.620 of 2002.

3. During the course of trial, P.Ws.1 to 10 were examined and Exs.P1 to P5 were marked on behalf of the prosecution. Ex.D1 was marked on behalf of the accused. On appreciation of oral and documentary evidence, the trial Court found the accused guilty for the offence under Section 304-A IPC, convicted and sentenced him to suffer simple imprisonment for a period of six months and to pay a fine of Rs.100/- in default to suffer simple imprisonment for one month. Aggrieved by the same, the petitioner-accused filed appeal viz., CrI.A.No.127 of 2005 before the Sessions Judge, Warangal. The said

appeal was dismissed by the learned Sessions Judge. Hence, the petitioner filed this revision.

4. Heard and perused the material available on record.

5. Learned Counsel for the petitioner submitted that the Courts below failed to appreciate the evidence in a proper perspective and that P.Ws.1, 2 and 4, who are cited as eye witnesses did not identify the accused and the prosecution has failed to conduct any identification parade to ensure the identity of the accused and that the owner of the vehicle was not examined in order to ascertain the identity of the driver and that without there being any cogent evidence, the Courts below convicted the petitioner-accused.

6. The learned Additional Public Prosecutor submitted that the Courts below appreciated the evidence in a proper perspective and that the judgments of the Courts below do not warrant any interference.

7. Perused the entire material available on record. P.Ws.1, 2 and 4 deposed in one voice that they had seen the driver of the vehicle involved in the accident and they identified the accused as the driver of the crime vehicle. There is no enmity between the accused and the above witnesses to implicate him in the above case. Nothing was elicited from the cross-examination of the above witnesses as to any enmity among the above witnesses and the accused. Further, from the material on record, it is evident that after the accident, the petitioner surrendered before the police admitting his involvement in the accident. If the petitioner was not the driver of the vehicle in question, there was no reason for him to surrender before the police after the accident. The evidence of the above witnesses establishes the case of the prosecution beyond all reasonable doubt. The Courts below have rightly appreciated the evidence. 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 of the lower appellate Court.

8. At this stage, the learned Counsel for the petitioner submitted that the petitioner was in prison for a considerable period and therefore, a lenient view may be taken.

9. Considering the facts and circumstances of the case and the submissions made by the learned Counsel for the petitioner, this Court is inclined to modify the sentence of imprisonment.

10. In the result, the conviction recorded by the Courts below against the petitioner-accused for the offence under Section 304-A IPC is confirmed. However, the period of sentence of six months simple imprisonment imposed by the Courts below against the petitioner-accused for the said offence is modified to the period which the petitioner-accused has already undergone, while confirming the sentence of fine. The petitioner-accused is further directed to pay additional fine of Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) on or before 20.10.2016 in default to suffer simple imprisonment for three months. On payment of additional fine amount, the same shall be given to the family members of the deceased towards compensation.

11. Accordingly, the Criminal Revision Case is partly allowed. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated:27th August, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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