

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.862 of 2008

JUDGMENT:

Petitioner/accused filed this criminal revision case by invoking the provisions under Sections 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 11.06.2008 rendered in Criminal Appeal No.42 of 2007 by the District and Sessions Judge, Visakhapatnam, whereby and whereunder the conviction and sentence of the petitioner/accused to undergo Simple Imprisonment for a period of one (1) year and to pay a fine of Rs.1,000/-, in default to undergo Simple Imprisonment for a period of two (2) months for the offence punishable under Section 304-A IPC recorded in judgment, dated 07.11.2007, in C.C.No.19 of 2004, by the Judicial Magistrate of First Class, Yellamanchilli, was confirmed.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

On 02.11.2003 at 2.00 p.m., the accused driver of van bearing No.AP 31U 2049 drove the same in a rash and negligent manner while proceeding from Addu Road to Kotavuratla side and dashed against the deceased Gorla Srinivasa Rao, who was going on a bicycle in the opposite direction at Darlapudi junction resulting in severe injuries to the deceased and later succumbed to injuries while undergoing treatment in the Government Hospital, Yellamanchilli. On the strength of the report given by the father of the deceased, a case in Crime No.73 of 2003 under Section 304-A IPC was registered and the case was investigated by M. Baburao, Assistant Sub-Inspector of Police, Yellamanchilli Rural Police

Station in-charge of S. Rayavaram Police Station and the investigation done by him disclosed that the accident occurred due to the rash and negligent driving of the accused driver and the accused is guilty of the offence punishable under Section 304-A IPC.

3. On appearance of the accused before the trial Court, the charge under Section 304-A IPC was framed against the accused, read over and explained to him in Telugu, for which, he pleaded not guilty and claimed for trial.

4. To substantiate its case, prosecution got examined PWs.1 to 10 and marked Exs.P-1 to P-14. On behalf of defence, no oral or documentary evidence was adduced.

5. After appreciating the oral and documentary evidence available on record, the trial Court found the accused guilty of the offence punishable under Section 304-A IPC, and accordingly, convicted and sentenced him as stated above. Aggrieved by the conviction order, the petitioner filed Crl.A.No.42 of 2007. The lower appellate Court dismissed the appeal by confirming the order of the trial Court, by judgment, dated 11.06.2008. Challenging the same, the present revision case is filed.

6. Heard and perused the entire material available on record.

7. After hearing the arguments of the learned counsel for both sides and after perusing the material available on record, this Court is of the view that there are no reasons to set aside the conviction against the petitioner/accused for the offence under Section 304-A IPC. When this Court expressed its opinion that this Court is not inclined to interfere with the concurrent findings

of the Courts below, learned counsel for the petitioner submitted that he will confine his arguments only to the extent of the period of imprisonment imposed against the petitioner.

8. Considering the facts and circumstances of the case and also in view of the submission of the learned counsel for the petitioner, this Court is inclined to reduce the sentence of imprisonment imposed against the petitioner for the offence under Section 304-A IPC to that of the period, which the appellant has already undergone.

9. In the result, the conviction recorded against the petitioner/accused by the Judicial Magistrate of First Class, Yellamanchilli, in C.C.No.19 of 2004, vide Judgment, dated 07.11.2007, for the offence under Section 304-A IPC, as confirmed by the District & Sessions Judge, Visakhapatnam, in Crl.A.No.42 of 2007, vide judgment, dated 11.06.2008, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the lower appellate Court, is modified to that of the period, which the petitioner has already undergone. However, the fine amount of Rs.1,000/- imposed on the petitioner by the trial Court is hereby enhanced to Rs.10,000/- (Rupees ten thousand only), which shall be paid on or before 30.10.2016, in default, the petitioner/accused shall undergo Rigorous Imprisonment for a period of three (3) months.

10. The Criminal Revision Case is, accordingly, allowed in part. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 22nd September, 2016
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