

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.722 of 2008

ORDER:

The petitioner-Accused preferred the present Criminal Revision Case by invoking the provisions under Sections 397 & 401 of the Code of Criminal Procedure being aggrieved by judgment, dated 30.04.2008, passed in CrI.A. No.68 of 2007 by the III Additional Sessions Judge, Warangal, whereby the learned Sessions Judge dismissed the appeal by confirming the judgment, dated 08.08.2007, passed in CC No.194 of 2004 by the III Additional Judicial Magistrate of First Class, Warangal, whereby the learned Magistrate found the accused guilty of the offences punishable under Sections 304-A, 338 and 337 IPC, and accordingly, convicted and sentenced him to undergo rigorous imprisonment for a period of one year for the offence punishable under Section 304-A IPC.

The case of the prosecution is that on 19.03.2004 at about 11.00 a.m., the accused went on a tractor along with trailer bearing No.AP 36 T 40545 and AP 36 T 4056 for sand from Akeruvagu to Kunoor village. After loading the sand, he came to Kunoor to go to Kazipet, where some persons boarded the tractor to go to their destinations. When the tractor reached the outskirts of Paghunadhapally village, the accused drove the tractor in a rash and negligent manner at a high speed and lost control over the same, due to which the tractor turned turtle and fell in a ditch by the side of the road, as a result of which, three persons were died on the spot and the remaining were sustained injuries all over their bodies. The injured persons and the deceased were shifted to MGM Hospital, Warangal. On the way to hospital, one of the injured was succumbed to injuries. On receiving information about the accident, LW.8 Sapranch of the village, rushed to spot and on his information, the

police went to the spot and on the complaint made by LW.1, registered a case against the accused. The accused voluntarily surrendered before the police on 07.04.2004 and thereafter, the accused was sent for judicial custody. After completion of investigation, the police filed charge sheet against the accused for the offences punishable under Sections 304-A and 337 IPC.

The trial Court took cognizance of the case against the accused for the offences punishable under Sections 304-A and 337 IPC. On appearance of the accused, the charges were read over and explained to him, for which he pleaded not guilty and claimed to be tried.

To prove its case, the prosecution examined PWs.1 to 15 and marked Exs.P1 to P23. Thereafter, the accused was examined under Section 313 Cr.P.C., and when the charge was read over and explained to him, he denied the same and claimed to be tried.

The trial Court, after considering the evidence on record, found the accused guilty of the offences under Sections 304-A, 338 and 337 IPC, and accordingly, convicted and sentenced him to undergo rigorous imprisonment for one year for the offence under Section 304-A IPC only, as it was sufficient to do so as the offences under Section 337 and 338 IPC are similar lesser offences. Challenging the same, the accused preferred CrI.A. No.68 of 2007 before the III- Additional Sessions Judge, Warangal, and the learned Sessions Judge, after re-appreciation of the evidence, dismissed the appeal by confirming the judgment of the trial Court, vide judgement impugned. Challenging the same, the present revision is filed by the petitioner –accused.

Heard and perused the material available on record.

On perusing the judgments of both the Courts below, this Court is of the view that since the findings of both the Courts below are concurrent in nature, this Court is not inclined to interfere with the factual aspects of the case.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioner-accused submitted that the incident was occurred more than 16 years ago and therefore, lenient view may be taken while imposing punishment against the petitioner. He relied on a decision of the Supreme Court in *A.P. RAJU vs. STATE OF ORISSA*¹.

Considering the facts and circumstances of the case and also taking into consideration the submissions of the learned counsel for the petitioner, the sentence of imprisonment imposed by the trial Court, as confirmed by the appellate Court, can be modified.

In the result, the conviction recorded against the petitioner-accused by the III-Additional Judicial Magistrate of First Class, Warangal, in CC No.194 of 2004 vide judgment, dated 08.08.2007, as confirmed by the III-Additional Sessions Judge, Warangal, in CrI.A. No.68 of 2007, vide judgment, dated 30.04.2008, for the offence under Section 304-A IPC, is confirmed. However, the sentence of imprisonment imposed by the trial Court for the offence under Section 304-A IPC, as confirmed by the appellate Court, is set aside and the petitioner is directed to pay an additional fine of Rs.20,000/- on or before 27.10.2016, failing which he shall undergo simple imprisonment for a period of six (6) months.

¹ 1995 Supp (2) SCC 385

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

RAJA ELANGO, J

August 29, 2016.

KTL

