

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1089 OF 2010

ORDER:

This Criminal Revision Case is filed by the petitioner/appellant/accused under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 9.6.2010, in Criminal Appeal No.19 of 2004 on the file of the VIII Additional Sessions Judge (Fast Track Court), Chittoor whereunder and whereby, the learned Sessions Judge dismissed the appeal filed by the petitioner against the judgment, dated 19.1.2004, in C.C.No.65 of 2000 on the file of the Judicial Magistrate of First Class, Palamaner.

2. Case of the prosecution, in brief, is as follows:

On 3.1.2000, at about 8:00 P.M., the accused, being the driver of lorry bearing No.KA-02-6927, drove the lorry in a rash and negligent manner and without taking proper care and caution by allowing passengers into the cabin and over the load of beans while proceeding from Gandrajupalli to Madras via Baireddipalli – Punganur road at Nallagattu near Akulakothuru Village. At the steep turning in the down gradient, he lost his control and the lorry turned turtle on its left side due to which one R.Reddeppa fell down and the load of beans bags fell on him and others as a result of which, Reddeppa died on the spot and some others, who boarded the lorry, sustained bleeding injuries. A case in Crime No.1 of 2000 was registered by Baireddipalli Police for the offences under Sections 304-A and 337 I.P.C.

3. The case was taken on file by the learned Magistrate for the offences under Sections 304-A and 337 I.P.C. and numbered as C.C.No.65 of 2000.

4. On appearance of the accused, he was furnished with copies of documents and examined under Section 251 Cr.P.C. He denied the offences, pleaded not guilty and claimed to be tried.

5. On behalf of the prosecution, P.Ws.1 to 13 were examined and Exs.P-1 to P-18 were marked besides M.O.1.

6. On completion of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. He denied the prosecution evidence and reported no defence evidence.

7. After considering both oral and documentary evidence, the trial Court found the accused guilty for the offences punishable under Sections 304-A and 337 I.P.C. and accordingly, convicted him under Section 255(2) Cr.P.C. and sentenced him to undergo rigorous imprisonment for a period of six months for the offence under Section 304-A I.P.C. and further sentenced him to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.300/- and in default of payment of fine, to suffer simple imprisonment for a period of one month for the offence under Section 337 I.P.C. Aggrieved thereby, the petitioner preferred the aforementioned appeal and the same was dismissed by the learned Sessions Judge confirming the judgment of the trial Court on the ground that the trial Court has not committed any error. Challenging the said judgment, the petitioner filed this Revision Case.

8. Heard and perused the material available on record.

9. Considering all the facts and circumstances of the case and from the material available on record, both the Courts below have rightly come to the conclusion that the accused committed the offences punishable under Sections 304-A and 337 I.P.C. and accordingly, convicted him as stated supra. Hence, this Court is not inclined to interfere with the conviction imposed by the Courts below.

10. Learned counsel for the petitioner submitted that this the first offence committed by the petitioner; that the petitioner is the sole bread winner of his family; that the petitioner is suffering from mental agony and hence, prays to set aside the sentence of imprisonment.

11. Considering the facts and circumstances of the case, the submission of the learned counsel for the petitioner and in view of the fact that the crime pertains to the year 2000, this Court is inclined to set aside the sentence of imprisonment against the petitioner.

12. In the result, the conviction imposed against the petitioner/appellant/accused in the judgment, dated 9.6.2010, in Criminal Appeal No.19 of 2004 on the file of the VIII Additional Sessions Judge (Fast Track Court), Chittoor for the offences punishable under Sections 304-A and 337 I.P.C. is confirmed. However, the sentence of imprisonment imposed by the trial Court, which was confirmed by the first appellate Court, for the said offences is set aside, while maintaining the sentence of fine.

Further, the petitioner is directed to pay additional fine of Rs.12,000/- (Rupees twelve thousand only) on or before 11.11.2016 and in default, to suffer simple imprisonment for a period of three (3) months.

13. Accordingly, this Criminal Revision Case is partly allowed.

14. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

19.9.2016
AMD



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