

THE HON' BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1341 of 2006

ORDER:

This Criminal Revision Case is preferred by the petitioner – accused against judgment, dated 29.07.2006 passed in CrI.A.No.98 of 2003 by the Sessions Judge, Vizianagaram, whereby the learned Sessions Judge confirmed the conviction and modified the sentence imposed by the Special Judicial Magistrate of First Class (Excise), Vizianagaram, in CC No.121 of 2002 vide Judgment, dated 29.07.2003.

The case of the prosecution is as follows:

On 15.11.2000 at 5.15 p.m., while the deceased Sdam Bangaramma, was proceeding from Polpalli junction to her house on NH-5 road, a lorry bearing No.AP 31 T 3919 came in a rash and negligent manner from Thimmapuram side and dashed against the deceased from behind, as a result of which the deceased died on the spot. The driver of the lorry absconded from the scene of offence. Inquest was held on the dead body of the deceased and post mortem examination was also conducted. After completion of investigation, the police filed charge sheet.

The case was taken on file by the Additional Judicial Magistrate of First Class, Vizianagaram in CC No.486 of 2000 for the offences under Sections 304-A IPC and 134 (a) (b) r/ w.187 of M.V. Act. The accused was examined under Section 251 Cr.P.C. Later the case was transferred to the Court of Special Judicial Magistrate of First Class (Excise), Vizianagaram for disposal in accordance with law and the same was renumbered as CC No.121 of 2002.

On behalf of the prosecution PWs.1 to 12 and marked Exs.P.1 to P.19 were marked. No oral or documentary evidence was adduced on behalf of the accused. The accused was examined under Section 313 Cr.P.C. He denied the charges levelled against him and claimed to be tried.

On appreciation of oral and documentary evidence, the trial Court found the petitioner-accused not guilty of the offence under Section 134 (a) (b) r/w.187 of M.V. Act and acquitted him for the said charge; and found him guilty of the offence under Section 304-A IPC and accordingly, convicted and sentenced him to suffer rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-, in default to suffer simple imprisonment for a period of three months. Aggrieved by the same, the petitioner preferred appeal in CrI.A. No.98 of 2003 before the Sessions Judge, Vizianagaram. The learned Sessions Judge, after re-appreciation of the evidence, partly allowed the appeal by confirming the conviction and reducing the sentenced imposed by the trial Court. Challenging the same, the present revision is preferred by the petitioner-accused.

Heard and perused the entire material available on record.

After evaluating the evidence and after considering the material available on record, this Court of the view that there are no valid reasons to interfere with the Judgments of the Courts below in convicting the petitioner – Accused for the offence punishable under Section 304-A IPC.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioner – accused restricted his

arguments to the quantum of sentence, and prayed that as the petitioner has suffered sufficient period in prison, a lenient view may be taken while imposing sentence.

Considering the facts and circumstances of the case and since the case pertains to the year 2000, this Court is inclined to reduce the sentence of imprisonment imposed by the trial Court on the petitioner – accused for the above offence to that of the period, which the petitioner has already undergone.

In the result, the conviction recorded by the Special Judicial Magistrate of First Class, (Excise) Vizianagaram, vide judgment, dated 29.07.2003, in CC No.121 of 2002, as confirmed by the Sessions Judge, Vizianagaram, vide judgment, dated 29.07.2006, in CrI.A. No.98 of 2003, for the offence under Section 304-A IPC is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as modified by the appellate Court, against the petitioner under the above head, is reduced to that of the period, which the petitioner has already undergone. The fine amount is not interfered with.

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

August 09, 2016.
KTL

RAJA ELANGO, J