

HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.622 of 2008

JUDGMENT:

Petitioner/A-1 filed this criminal revision case by invoking the provisions under Sections 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 19.04.2008 rendered in C.A.No.32 of 2007 by the VI Additional District & Sessions Judge (Fast Track Court), Markapur, whereby and whereunder the conviction and sentence of the petitioner/A-1 to undergo Rigorous Imprisonment for a period of one (1) year and fine of Rs.1,000/- for the offence punishable under Section 304-A IPC, in default to suffer Simple Imprisonment for a period of two (2) months recorded in judgment, dated 21.03.2007, in C.C.No.105 of 2004, by the Additional Junior Civil Judge, Giddalur, was confirmed and the sentence of fine to pay fine of Rs.500/- for the offence punishable under Section 337 IPC, in default to suffer Simple Imprisonment for a period of one (1) month was set aside.

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

A-1 is the driver and A-2 is the owner of tractor bearing No.AP 27H/TR/0446/2003 and trailer No.27D ATR 605. On 10.02.2004 while the deceased was watching her Tomato fields situated on the western side of Komarole – Porumamella Road near Yerrapalli bus stop by standing at the right side road margin, A-1 being driver of said tractor, came from Komarole side by driving it in a rash and negligent manner towards right side of road margin without blowing horn and hit the deceased and run over the deceased and went into the fields of deceased and truck of said tractor turned turtle. As a result, P.W.2 and A-1 sustained injuries

and that P.Ws.3 to 5, who were in truck of tractor escaped unhurt. The deceased sustained severe injuries and died on the way, while shifting to the hospital by P.W.1, P.W.6 and P.W.7 and, therefore, the deceased was brought back to the scene of offence. A-2 shifted P.W.2 to the Government Hospital, Giddalaur, for treatment. P.W.1 gave report to the Sub-Inspector of Police, Komarole P.S., who registered a case in Crime No.5 of 2004 and took up entire investigation in this case.

During the course of investigation, the Sub-Inspector of Police, Komarole P.S. visited the scene of offence, observed the scene and prepared observation and rough sketch and held inquest over the dead body of the deceased and examined witnesses and recorded their statements and sent dead body to the post mortem and got photographed the scene and got the crime vehicle inspected by Motor Vehicle Inspector and that on 16.02.2004, he arrested A-1 when surrendered. It is further alleged that on 05.04.2004, A-2 produced R.C. and insurance certificate of crime vehicle and that he perused the same and found that RC and insurance are not in force by the time of accident and hence, he added owner of the crime vehicle as A-2 and arrested A-2 and released him on bail. After receiving wound certificates and post mortem report and after completion of investigation, he laid charge sheet against the accused for the offences punishable under Sections 337 & 304-A IPC.

3. On appearance of the accused before the trial Court, the charges under Sections 337 & 304-A IPC were framed against the accused, read over and explained to them, for which, they pleaded not guilty and claimed for trial.

4. To substantiate its case, prosecution got examined PWs.1 to 13 and marked Exs.P-1 to P-12. 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 A-2 not guilty for the offence under Sections 337 & 304-A IPC and acquitted him under Section 255(1) Cr.P.C. The trial Court found the A-1 guilty of the offences punishable under Sections 337 & 304-A IPC, and accordingly, convicted and sentenced him as stated above. Aggrieved by the conviction order, the petitioner/A-1 filed C.A.No.32 of 2007. The lower appellate Court found A-1 not guilty for the offence under Section 337 IPC and set aside the conviction and sentence passed against A-1 in C.C.No.105 of 2004. The A-1 was found guilty for the offence under Section 304-A IPC and confirmed the conviction and sentence imposed against him. 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/A-1 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/A-1 by the Additional Junior Civil Judge, Giddalur, in C.C.No.105 of 2004, vide Judgment, dated 21.03.2007, for the offence under Section 304-A IPC, as confirmed by the VI Additional District & Sessions Judge (Fast Track Court), Markapur, in C.A.No.32 of 2007, vide judgment, dated 19.04.2008, 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. The petitioner/A-1 is directed to pay a sum of Rs.9,000/- (Rupees nine thousand only) as fine on or before 14.10.2016, in default, to 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, in the criminal revision case shall stand closed.

RAJA ELANGO, J

Date: 26th August, 2016

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