

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL REVISION CASE No.947 of 2008**

**JUDGMENT:**

1. This revision is filed by the petitioner-accused against the Judgment dated 1.7.2008 passed in CrI.A.No.115 of 2006 by the Sessions Judge, Mahaboobnagar.

2. The case of the prosecution is as follows:

On 21.2.2004, P.W.1 along with P.Ws.2 to 4 and others visited Maddi Madugu Anjaneya Swamy temple and after having darshan, they returned to their village in a lorry. On the way near Hajipur cross road at about 19.30 hours, they stopped the lorry for attending calls of nature and to have tea. While one Venkateswarlu, a boy of 12 years, was crossing the road after attending calls of nature, the accused-driver of RTC bus coming from Hyderabad side, drove the bus with high speed in a rash and negligent manner and dashed against the said Venkateswarlu, due to which, he died on the spot. On the basis of the complaint lodged by P.W.1, a case was registered and investigated into. After completion of the investigation, charge sheet was filed.

3. The learned Judicial Magistrate of First Class, Achampet, took the case on file as C.C.No.19 of 2004 against the petitioner-accused for the offence under Section 304-A IPC. When the accused was examined under Section 251 Cr.P.C., for the accusation made against him, he pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 12 were examined and Exs.P1 to P8 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf of the accused.

5. On appreciation of both oral and documentary evidence, the trial Court found the accused guilty for the offence under Section 304-A IPC, convicted and sentenced him to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for one week. Aggrieved by the same, the petitioner-accused filed appeal viz., Crl.A.No.115 of 2006 before the Sessions Judge, Mahabubnagar. The learned Sessions Judge dismissed the appeal. Hence, the petitioner filed this revision.

6. Heard and perused the material available on record.

7. The evidence of P.Ws.1 to 4 and 5 goes to show that the petitioner was the driver of the crime bus on the date of accident and that the accident occurred due to rash and negligent driving of the vehicle in question. Nothing was elicited from the cross-examination of the witnesses to disprove the case of the prosecution. The findings of both the Courts below with regard to the accident caused by the petitioner are concurrent. Therefore, this Court is not inclined to interfere with the judgment under revision.

8. At this stage, the learned Counsel for the petitioner prayed for taking a lenient view.

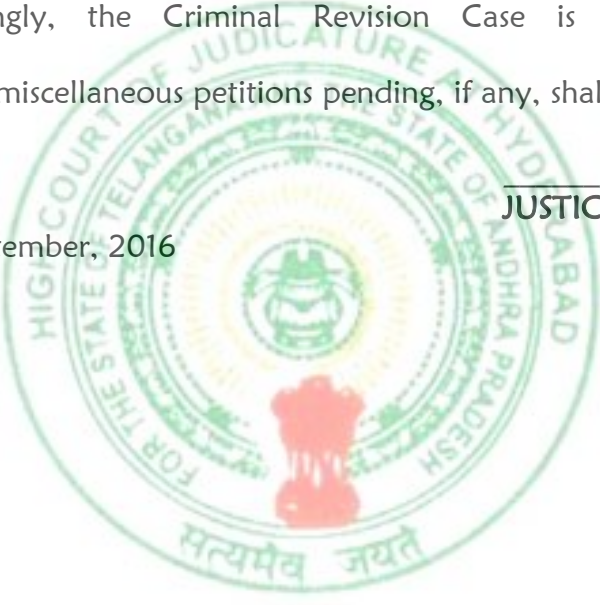
9. Considering the facts and circumstances of the case and the submissions of the learned Counsel for the petitioner, this Court is inclined to modify the sentence.

10. In the result, the conviction imposed by the Courts below against the petitioner-accused for the offence under Section 304-A IPC is confirmed. However, the sentence of imprisonment imposed by the Courts below for the said offence is set aside while confirming the sentence of fine with default sentence. Further, the petitioner-accused is directed to pay additional fine of Rs.5,000/- (Rupees Five Thousand only) in default to suffer simple imprisonment for one month for the said offence. On payment of the additional fine amount, the same shall be given to the parents of the deceased.

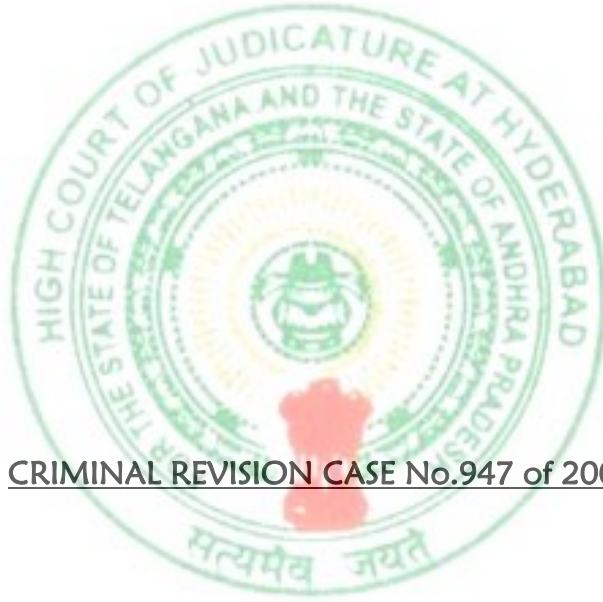
11. Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Dated:23<sup>rd</sup> September, 2016

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JUSTICE RAJA ELANGO

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23.9.2016

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