

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.297 OF 2007

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner/appellant/accused challenging the judgment, dated 23.2.2007, in Criminal Appeal No.80 of 2005 on the file of the IV Additional Sessions Judge, Kurnool whereunder and whereby, the learned Sessions Judge dismissed the appeal filed by the petitioner against the judgment, dated 3.8.2005, in C.C.No.478 of 2004 on the file of the Special Judicial Magistrate of First Class, Prohibition and Excise, Kurnool.

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

The Sub Inspector of Police, Ulindakonda Police Station has filed charge sheet against the accused in Crime No.37 of 2003 alleging that the accused was the driver of tractor bearing No.AP-21-U-3895 and 3896 at the time of accident. The Sub Inspector recorded the statement of L.W.1 – M.Venkata Rami Reddy on 17.6.2003 at 6:00 P.M. wherein he stated that on 17.6.2003, at about 4:15 P.M., the accused drove the tractor in a rash and negligent manner and while taking reverse, he dashed one M.Naveen Kumar, who was proceeding to his house, as a result of which, the tractor ran over through the head of the deceased and the said Naveen Kumar died on the spot. After completion of investigation, the Sub Inspector filed charge sheet for the offence under Section 304-A I.P.C.

3. Cognizance was taken against the accused for the offence under Section 304-A I.P.C. After appearance of the accused, copies of the documents were supplied to him and he was examined under Section 251 Cr.P.C. for the offence punishable under Section 304-A I.P.C. for which, he pleaded not guilty and claimed to be tried. So, he was placed for trial.

4. On behalf of the prosecution, P.Ws.1 to 9 were examined and Exs.P-1 to P-8 were got marked. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. for which, he denied the evidence. On behalf of the accused, neither any witness was examined nor any document was got marked.

5. After considering both oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 304-A I.P.C. and accordingly, convicted and sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine, to undergo simple imprisonment for a period of one month. 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.

6. Heard and perused the material available on record.

7. Considering all the facts and circumstances of the case and from the material available on record, both the Courts below rightly came to the conclusion that the accused has committed the

offence punishable under Section 304-A I.P.C. and accordingly, convicted him as stated supra. In view of the concurrent findings of both the Courts below, this Court is not inclined to interfere with the conviction imposed against the petitioner.

8. At this stage, learned counsel for the petitioner submitted that the petitioner is a poor person having two female children and hence, he prayed to reduce the sentence of imprisonment.

9. The occurrence took place in the year 2003. Considering the facts and circumstances of the case and the submission of the learned counsel for the petitioner, this Court is of the view that sentencing the petitioner to imprisonment after lapse of 13 years would certainly cause prejudice to him. Hence, this Court is inclined to set aside the sentence of imprisonment.

10. In the result, the conviction imposed against the petitioner/accused in the judgment, dated 3.8.2005, in C.C.No.478 of 2004 on the file of the Special Judicial Magistrate of First Class, Prohibition and Excise, Kurnool, which was confirmed in the judgment, dated 23.2.2007, in Criminal Appeal No.80 of 2005 on the file of the IV Additional Sessions Judge, Kurnool for the offence punishable under Section 304-A 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 offence is set aside. Apart from the fine amount of Rs.500/-, the petitioner is directed to pay Rs.7,000/- (Rupees seven thousand only) as fine on or before 28.10.2016 and in default, he shall undergo rigorous imprisonment for a period of one month.

11. Accordingly, this Criminal Revision Case is partly allowed.
12. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

30.8.2016
AMD



THE HONOURABLE SRI JUSTICE RAJA ELANGO



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Date: 30.8.2016

AMD