

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1789 of 2009

JUDGMENT:

Petitioner/accused filed this criminal revision case by invoking the provisions under Sections 397 read with 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 23.10.2009, rendered in C.A.No.106 of 2007 by the District & Sessions Judge, Chittoor, Chittoor District, whereby and whereunder the conviction and sentence of the petitioner/accused to undergo Simple Imprisonment for a period of six (6) months and also to pay a fine of Rs.200/-, in default to suffer Simple Imprisonment for a period of one (1) month for the offence punishable under Section 304-A IPC recorded in judgment, dated 25.04.2007, in C.C.No.164 of 2006, passed by the Judicial Magistrate of First Class, Palamaner, Chittoor District, was confirmed.

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

On 22.06.2006, the accused being driver of lorry bearing No.AP 12U 4926 drove the vehicle in a rash and negligent manner, while proceeding towards Palamaner from Bangalore dashed against the rear portion of double bullock cart, which was proceeding ahead of the lorry. Due to the said dash, Kongolla Yellamma and Kaanala Venkatamma, who were travelling on the double bullock cart, fell on the road and the lorry ran over them, resulting instantaneous death. Bulls of bullock cart sustained injuries, while rear portion of double bullock cart got damaged. Driver of double bullock cart G.Kesava Reddy and another

occupant G.Kesavulu Reddy escaped unhurt. On the complaint of G. Kesava Reddy, FIR is registered in Crime No.51 of 2006 and arrested the accused on 07.07.2006. Investigation revealed that both women died due to rash and negligent driving of accused and the accused committed offence punishable under Section 304-A IPC.

3. On appearance of the accused, charge under Section 304-A IPC was framed, read over and explained to the accused, he pleaded not guilty and claimed to be tried.

4. To substantiate the charge, the prosecution examined P.Ws.1 to 12 and got marked Exs.P-1 to P-11.

5. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. with reference to the incriminating evidence appearing against him in the evidence of P.Ws.1 to 11. He denied the same. On behalf of the accused, no oral or documentary evidence was adduced.

6. The trial Court, after considering the evidence on record, found the accused guilty of the offence punishable under Section 304-A IPC and sentenced as stated above. On appeal, the said conviction and sentence was confirmed. Hence, the present Criminal Revision Case.

7. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the material available on record.

8. On perusing the judgments of both the Courts below, this Court is of the view that since the findings of both the Courts below are concurrent in nature, this Court is not inclined to interfere with the factual aspects of the case.

9. 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 leniency may be shown while imposing sentence.

10. Considering the facts and circumstances of the case and also the time elapsed, the sentence of imprisonment imposed against the petitioner by the trial Court, as confirmed by the lower appellate Court, can be set aside by imposing additional fine amount on the petitioner.

11. In the result, the conviction recorded by the Judicial Magistrate of First Class, Palamaner, Chittoor District, in C.C.No.164 of 2006 vide judgment, dated 25.04.2007, as confirmed by the District and Sessions Judge, Chittoor, Chittoor District, in C.A.No.106 of 2007, vide judgment, dated 23.10.2009, for the offence under Section 304-A IPC is confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the appellate Court, against the petitioner for the above offence is set aside and the petitioner is sentenced to pay an additional fine of Rs.15,000/- on or before 25.10.2016; in default, to undergo Simple Imprisonment for a period of three (3) months. The additional fine amount paid by the petitioner/accused shall be given as compensation to the respective family members of both the deceased @ Rs.7,500/- each.

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

RAJA ELANGO, J

Date: 9th August, 2016
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