

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1183 of 2012

ORDER:

The petitioner-Accused preferred the present Criminal Revision Case by invoking the provisions under Section 397 r/w.401 of the Code of Criminal Procedure being aggrieved by the judgment, dated 29.06.2012, passed in Crl.A. No.51 of 2012 by the IV Additional Sessions Judge, Karimnagar, whereby the learned Sessions Judge dismissed the appeal, confirming the Judgment, dated 10.04.2012, passed in CC No.212 of 2009 by the Special Judicial Magistrate of First Class, (Excise), Karimnagar, whereby the learned Magistrate found the accused guilty of the offences punishable under Sections 304-A, 338 and 337 IPC, and accordingly, convicted him and sentenced him as under:

- i) to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- for the offence under Section 304-A IPC, in default to suffer simple imprisonment for a period of one month;
- ii) to pay a fine of Rs.1,000/- for the offence punishable under Section 338 IPC, in default to suffer simple imprisonment for a period of two months and;
- iii) to pay a fine of Rs.500/- for the offence punishable under Section 337 IPC, in default to suffer simple imprisonment for a period of one month.

The case of the prosecution is that on 31.12.2007, the deceased Pittla Rajaiah and LWs.2 to 6 boarded the Auto of the accused to go to Karimnagar and when the auto reached Ellamma temple at the outskirts of Chengarla village, the accused drove the auto in a rash and negligent manner as a result of which, the auto turned turtle and the deceased received

multiple injuries on the head and other parts of the body, while LWs.2, 5 and 6 sustained simple injuries and LWs.3 and 4 sustained grievous injuries. Immediately they were shifted to the Government Hospital, Karimnagar and from there the deceased was shifted to Devishetti Super Speciality Hospital, Karimnagar. On receipt of information from LW.1, the Head Constable of P.S. Manakondur, registered a case in Crime No.2 of 2008 for the offence punishable under Section 337 IPC against the accused and investigated into. On 03.01.2008 the deceased died while undergoing treatment in Devishetti Super Speciality Hospital and on information, LW.20 visited the Hospital and held inquest over the dead body and recorded the statements of the witnesses and added Section 304-A IPC, and subsequently, LW.21 took up further investigation. On 21.01.2008, the petitioner surrendered before LW.21 and admitted his guilt and he was sent to judicial custody. LW.18 – Doctor conducted Post Mortem Examination on the dead body of the deceased and issued report opining that the cause of death is due to head injury. After completion of investigation, the police filed charge sheet against the accused for the offences punishable under Sections 304-A, 338 and 337 IPC.

The case was originally taken on file by the Additional Magistrate of First Class, Karimnagar vide CC No.724 of 2008 against the accused for the offences punishable under Sections 304-A, 338 and 337 IPC. Subsequently, the case was transferred to the trial Court for disposal in accordance with law and the same was renumbered as CC No.212 of 2009.

On appearance of the accused, charges under Sections 304-A, 338 and 337 were read over and explained to him, for which, he pleaded not guilty and claimed to be tried.

To substantiate its case, the prosecution examined PWs.1 to 15 and got marked Exs.P-1 to P-13. On behalf of the accused, DW.1 was examined and Ex.D1 was marked.

The trial Court, after considering the evidence on record, found the accused guilty of the above charges, and accordingly, convicted and sentenced him as stated above. Challenging the same, the petitioner preferred Crl.A. No.51 of 2012 before the IV Additional Sessions Judge, Karimnagar, and the learned Sessions Judge dismissed the appeal by confirming the judgment of the trial Court vide judgement impugned.

Heard and perused the material available on record.

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.

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.

Considering the facts and circumstances of the case and also considering that the occurrence took place in the year 2007 and the case pertains to the year 2009, the sentence of imprisonment imposed by the trial Court, as confirmed by the lower appellate Court, can be set aside by imposing additional fine amount on the petitioner.

In the result, the conviction recorded against the petitioner- accused by the Special Judicial Magistrate of First Class, (Excise Court) Karimnagar, in CC No.212 of 2009 vide

judgment, dated 10.04.2012, as confirmed by the IV Additional Sessions Judge, Karimnagar, in CrI.A. No.51 of 2012, vide judgment, dated 29.06.2012, for the offences under Sections 304-A, 338 and 337 IPC, is confirmed. However, the sentence of imprisonment imposed by the trial Court for the offence under Section 304-A is modified and the petitioner is directed to pay an additional fine of Rs.7,000/- on or before 10.08.2016, failing which he shall undergo rigorous imprisonment for a period of three months. The sentence of fine amount imposed by the trial Court against the petitioner for the offences under Sections 337 and 338 IPC is not interfered with.

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

RAJA ELANGO, J

July 20, 2016.

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