

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.774 of 2005

ORDER:

The present Revision Petitioner/appellant/accused was convicted under Section 255 (2) of Cr.P.C. for the offence punishable under Section 304-A of I.P.C. and sentenced to undergo rigorous imprisonment for six months and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for two months by the learned X-Metropolitan Magistrate, Secunderabad, in C.C. No.992 of 2002. The said judgment was pronounced on 29.10.2004.

2. When the revision petitioner preferred appeal, the learned Special Judge for the trial of offences under SCs & STs (PoA) Act-cum-VI Additional Metropolitan Sessions Judge-cum-XX Additional Chief Judge, Secunderabad, in Criminal Appeal No.317 of 2004, by his judgment dated 3.5.2005, while maintaining the conviction for the said offence, however, reduced rigorous imprisonment for six months inflicted by the learned Magistrate to four months, but maintained the fine imposed by the learned Magistrate.

3. Aggrieved over the said conviction and sentence of imprisonment and fine, the present Criminal Revision Case is filed by the revision petitioner.

4. In fact, the revision petitioner was granted bail by order dated 17.5.2005, suspending the sentence of imprisonment inflicted,

in Criminal M.P. No.1006 of 2005. Since there was no representation on 27.9.2016, this Court directed the Registry to issue Bailable warrant to the revision petitioner. Again, there was no representation for quite a long time. On 9.11.2017, when there was no representation for the revision petitioner, Registry was directed to list under the caption 'For Orders'. Today also, in the forenoon session, there was no representation for the revision petitioner, and, therefore, the matter was called at 2.30 p.m. When called at 2.30 p.m., there was no representation and even at 4.30 p.m. Hence, the present Criminal Revision Case is disposed of on merits.

5. Perused the judgments of the learned Magistrate and learned Appellate Judge. The prosecution, in fact, examined P.Ws.1 to 8, amongst whom, P.W.7 is the medical officer, who conducted postmortem examination and the eye-witnesses P.Ws.2 and 3 being Traffic S.I. and Traffic Police Constable. P.W.1 is the complainant. Except P.W.4, who turned hostile, all other witnesses supported the prosecution case. The contradiction in 161 Cr.P.C. statement of P.W.1 is marked as Ex.D1. The learned Judge, having found that the evidence of P.Ws.1 to 3 is unshaken and viewing that their testimony cannot be discredited, held that the prosecution proved the offence beyond all reasonable doubt. Thus, recording the conviction inflicted the sentence of imprisonment, besides imposing fine, as referred to in the above.

6. When appealed, the learned Sessions Judge has taken up the evidence of prosecution witnesses and reappraised the evidence as regards identity referred to in the evidence of P.W.1/*de facto* complainant and found that the evidence of P.W.1 proves identity of the revision petitioner, who was actually driving the Oil Tanker bearing No.AP-09-U-3956 at the relevant time. It cannot be said that she had no occasion to see the revision petitioner as, soon after the accident he stopped the vehicle and got down and then ran away from the scene. Ex.D-1 portion, which is the contradiction, marked in her (P.W.1) statement does not amount to material contradiction to throw away the case of the prosecution. Therefore, the learned Appellate Judge even held that the learned Magistrate did not go wrong in appreciating the evidence on record, and on his independent examination of the evidence on record, opined that the prosecution proved the offence beyond all reasonable doubt. However, while maintaining conviction, reduced the sentence of rigorous imprisonment from six months to four months, but confirmed the fine imposed by the learned Magistrate.

7. As discussed in the above, the evidence of P.Ws.1 to 3 cannot be brushed aside as nothing is brought out in their cross-examination to show that they are actuated by any ill-will or false motive to speak falsehood so as to implicate the revision petitioner. More particularly, P.Ws.2 and 3, being the Traffic S.I., and Traffic Police Constable, actually present at the time when the revision

petitioner caused the accident and found getting down from the lorry, having stopped it, and ran away from the scene.

8. There is no merit in the present Criminal Revision Case and the concurrent findings recorded by the Courts below do not suffer from any patent illegality warranting interference.

9. Hence, the Criminal Revision Case is dismissed.

10. Since the revision petitioner was granted bail, the revision petitioner is directed to surrender before the learned X-Metropolitan Magistrate, City Civil Court, Secunderabad, by 27.11.2017 and to undergo remaining sentence of rigorous imprisonment out of four months inflicted by the Special Judge for the trial of offences under SCs & STs (PoA) Act-cum-VI Additional Metropolitan Sessions Judge-cum-XX Additional Chief Judge, Secunderabad. In case the revision petitioner-accused fails to surrender, the learned Magistrate is directed to secure his presence and commit him to the prison to serve out remaining sentence of rigorous imprisonment.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA

Dt.10.11.2017
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