

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL REVISION CASE No.57 of 2006

ORDER:

The present Criminal Revision Case is preferred by the appellant – accused questioning the conviction recorded under Section 255 (2) of the Code of Criminal Procedure (for short, 'the Code') by the Judicial Magistrate of First Class, Madhira, vide his judgment dated 18.07.2005 in C.C.No.112 of 1999, for the offence punishable under Section 304-A IPC and the sentence of Simple Imprisonment for a period of one year and affirmed by the learned II-Additional District & Sessions Judge (FTC-I), Khammam, by the judgment dated 30.12.2005 in CrI.A.No.46 of 2005.

In fact, the learned Magistrate also convicted the revision petitioner - accused for the offence punishable under Section 134 read with Section 187 of the Motor Vehicles Act and sentenced to undergo Simple Imprisonment for one month for the said offence, but, however, the lower appellate Court, while confirming the conviction and sentence passed by the learned Magistrate for the offence under Section 304-A IPC, has set aside the conviction and sentence inflicted on the revision petitioner for the offence under Section 134 read with Section 187 of the Motor Vehicles Act, assigning certain reasons in paragraphs '9' and '10' of the judgment dated 30.12.2005, in the aforesaid Criminal Appeal.

Heard Sri K.Vinay Kumar, learned counsel for the revision petitioner, and the learned Additional Public Prosecutor for the State of Telangana appearing for the respondent.

The main submission of the learned counsel for the revision petitioner is that the evidence of PW.1 is not clinching as to the identity of the accused, though, he supported the prosecution case in chief-examination, but, certain answers given by him in his cross-examination would, certainly, favour the revision petitioner, that were not taken note of by the courts below. So far as the evidence of PWs.2 to 4 are concerned, the lower appellate Court has observed that they did not identify the revision petitioner.

As could be seen from the facts, the revision petitioner was the driver of the accident lorry and he drove the lorry in a rash and negligent manner, due to which, the accident occurred resulting injuries to PWs.2 to 4 and death of a lady by name, Chilaka Sayamma instantly and, immediately, the revision petitioner turned the lorry to flee away from the place of occurrence. According to the prosecution case, the lorry was chased and, in fact, the revision petitioner was caught and taken to the police station. That has been the evidence on record. But, the Investigating Officer would state in his final report that, in fact, the revision petitioner himself surrendered before the police. In regard thereto, in paragraph '9' under point No.2, the lower appellate Court has discussed that it is common knowledge that investigating officers show the arrest of the accused later on as per their convenience to have a feather in their cap and, therefore, believed the evidence of PW.1 that immediately after the accident, PW.1 and others chased the accused and the accused went to the police station, and, as such, there was no possibility to the accused to shift the injured to the Hospital. It was also

observed by the lower appellate Court that as PW.1 lodged the complaint with the police after the accident, the accused had no opportunity to give report to police or the investigating officer might not have allowed the accused to give report to him.

Be that as it may, the fact remains, when the accused was chased, he rushed to the police station. However, the lower appellate court, somehow, quoting the provisions of Section 134 of Motor Vehicles Act, held that the accused is entitled to the benefits of exceptions mentioned therein and, thereby, set aside the punishment inflicted on the accused for the offence punishable under Section 134 read with Section 187 of the Motor Vehicles Act. But, that cannot be a ground to suspect the entire case of the prosecution. The findings recorded by the trial court as well as the lower appellate court cannot be faulted so far as the appreciation of evidence on record is concerned. No doubt, the doctor, who held post-mortem examination, was not examined, but, that cannot be a ground to view the case of the prosecution with suspicion in an accident case. The non-examination of the doctor would not make any difference, unless the very death is suspicious without knowing the cause of death of the deceased person. Even the evidence of the Motor Vehicles Inspector shows that there was no mechanical defect and, therefore, it cannot be said that the findings recorded by the courts below suffer from patent illegality or legal infirmity warranting interference.

The sentence of imprisonment inflicted on the revision petitioner by the trial Court for the offence punishable under Section 304-A IPC was one year and the same was affirmed by the lower appellate Court.

Since the Calender Case and the Criminal Appeal relate to the years 1999 and 2005, respectively, and the present revision case is of the year 2006, keeping in view, the considerable distance of time, it would be desirable to reduce the sentence of imprisonment from one year to six months, which would meet the ends of justice, while confirming the conviction recorded by the courts below.

Accordingly, the Criminal Revision Case is partly allowed and the sentence of Simple Imprisonment of one year inflicted on the revision petitioner by the trial Court for the offence punishable under Section 304-A IPC and affirmed by the lower appellate Court, is reduced to six months by confirming the conviction recorded by the courts below for the said offence.

The revision petitioner is directed to surrender before the Judicial Magistrate of First Class, Madhira, by 21.12.2017 to serve out the sentence of imprisonment. In case he fails to surrender, the learned Magistrate is directed to secure his presence and put him in prison to serve out the sentence giving credit to the period of pre-trial detention as well as post-trial detention.

Miscellaneous applications, if any, pending in the Criminal Revision Case stand closed.

JUSTICE A.SHANKAR NARAYANA

23.11.2017

v v