

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2842 OF 2017

JUDGMENT:

The present Criminal Revision Case is preferred by the revision petitioner-appellant-accused, questioning the sentence of rigorous imprisonment of six months inflicted for the offence punishable under Section 304-A of I.P.C. and imposing fine of Rs.500/- (Rupees Five hundred only) each for the offences punishable under Section 304-A of I.P.C. and 337 of I.P.C. respectively, with default sentence of simple imprisonment of month, by the Judicial Magistrate of First Class, Chevella, Rangareddy District, by his judgment dated 15.9.2016, in Calendar Case No.26 of 2015, as affirmed by the learned XII-Additional District & Sessions Judge, Vikarabad, Rangareddy District, by his judgment dated 14.9.2017, in Criminal Appeal No.51 of 2016, under Section 397 and 401 of Criminal Procedure Code, 1973 (for short, 'Cr.P.C.').

2. The learned Magistrate, since the revision petitioner has pleaded not guilty when examined under Section 251 of Cr.P.C. for the offences punishable under Sections 304-A and 337 of IPC, proceeded with the trial by examining P.Ws.1 to 10 and marking Exs.P1 to P12, and on the basis of the evidence of P.W.2, who is an eye-witness, and, in fact riding the bike, whereas the deceased was pillion rider and also the evidence of P.W.3, who is also an eye-witness and the evidence of P.W.5 and P.W.6 who are the

panchayatdars for the scene of offence panchanama and rough sketch under Exs.P3 and P4 respectively, and Inquest report under Ex.P5, and the evidence of eye-witness, examined as P.W.7, and the medical officers P.Ws.8 and 9, who treated the injuries on the persons of P.Ws.2 and 3; and Ex.P8-Postmortem report proving that the death of the deceased was due to accident, and the evidence of P.W.10, Sub-Inspector of Police, disbelieved the stand taken by the accused that he is falsely implicated and opining that the evidence of prosecution witnesses is unshaken in all respects and that the prosecution proved the aforesaid offences beyond all reasonable doubt, and also referring to certain rulings in regard to the rash and negligent driving in **Juggan Khan v. State of M.P.** (AIR 1965 SC 831), 1992 CrI. L.J. 746 of Madhya Pradesh High Court and **Chandramohan Nair v. State of Kerala** (1994 SCC (CrI.) 1750) recorded the conviction under Section 255 (2) of Cr.P.C. and inflicted the aforesaid sentences of imprisonment and fine amounts with default sentence, as mentioned in the above.

3. Questioning the same, the revision petitioner preferred Criminal Appeal No.51 of 2016 on the file of XII-Additional District and Sessions Judge, Vikarabad, Rangareddy District. The lower appellate Court on reappraisal of evidence on record, placing reliance in **Babu v. State of Uttar Pradesh** (AIR 1990 SC 443), AIR 1994 SC 1624 in regard to appreciation of evidence, scanned the evidence of P.Ws.2, 3 and 7, who are eye-witnesses besides being injured, so far

as P.Ws.2 and 3 are concerned opining that the injuries are proved through the evidence of medical officers examined as P.Ws.8 and 9, held that the prosecution could prove the offences alleged against the petitioner and finding that there was no legal infirmity at all in the findings recorded by the trial Court in regard to the identity of the revision petitioner and the rash and negligent driving on the part of the revision petitioner in occasioning the accident resulting in death and injuries to P.Ws.2 and 3 affirmed the conviction as well as the sentence of imprisonment and fine amounts as afore mentioned.

4. Aggrieved over the same, the present Criminal Revision Case is preferred.

5. Heard Ms. Naseeb Afshan, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Telangana.

6. Though, it is unnecessary to advert to the fact-situation since concurrent findings have been recorded and even a cursory glance at the evidence of prosecution witnesses would show that there is no patent illegality in the findings recorded by the Courts below, still, a few facts are necessary to advert to in appreciating the submissions made by the learned counsel for the revision petitioner.

7. On 5.12.2014, P.W.2 along with deceased Ramchander, who is the close relative, started on their motorcycle bearing No.AP-28-DQ-2017 from Indra Nagar, where they resided, to go to Chevella.

When they reached Damaragidda gate, a Qualis vehicle driven in a rash and negligent manner dashed their motorcycle, due to which they fell down and sustained grievous injuries. While undergoing treatment, the said Ramchander succumbed to the injuries. It is also according to the prosecution case that the Qualis vehicle was not only dashed the two wheeler of PW.2 and the deceased, but having hit them went ahead and hit another motor bike on which P.W.3 along with M. Vishnu Vardhan (P.W.7) were proceeding. They have given Qualis vehicle Number as KA-32-M-3788, which came from their behind and hit their motor cycle AP-28-DJ-3032.

8. When the evidence of all these witnesses is perused, P.W.2, P.W.3 and P.W.7 being eye-witnesses have spoken to the relevant details meticulously as to identity of the revision petitioner-accused and the rash and negligent driving on his part occasioning the accident of hitting both the motorcycles one after other causing serious injuries to P.Ws.2 and 3 and the deceased Ramchander, succumbing to injuries. Though, they were cross-examined, nothing is brought out to favour the stand of the accused or to disbelieve their testimony. No doubt, the stand taken by the accused is that he was falsely implicated, but, unless a strong case is made out showing that they were actuated by ill-will or false motive to implicate him, the said stand falls to the ground as it is only a make believe story invented for the purpose of getting rid of impending conviction. Even the evidence of panchayatdars to the scene of offence and inquest as

well as post-mortem examination would corroborate rash and negligent driving of the accused. The medical evidence as observed in the above proves the injuries sustained by P.Ws.2 and 3 and the death of the deceased as a result of the injuries he sustained in the accident.

9. Hence, absolutely, there is no merit in the Criminal Revision Case, and, accordingly the same is dismissed confirming the conviction recorded under Section 255 (2) of Cr.P.C. and the sentence of rigorous imprisonment for six months and fine of Rs.500/- for the offence punishable under Sections 304-A and with fine of Rs.500/- for the offence under Section 337 of IPC with default sentence to undergo simple imprisonment for one month under both counts against the revision petitioner-accused viz., Shaik Ashfaq Ahmed, by the learned Judicial Magistrate of First Class, Chevella, in C.C. No.26 of 2015 as affirmed by the XII-Additional District and Sessions Judge, Vikarabad, in Criminal Appeal No.51 of 2016.

The revision petitioner is in jail since 14.9.2017 according to the learned counsel for the revision petitioner.

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

A. SHANKAR NARAYANA, J

December 27, 2017.

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