

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2500 OF 2017

JUDGMENT:

The present Criminal Revision Case is preferred, under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code'), questioning the conviction recorded for the offence punishable under section 304-A of Indian Penal Code, 1860 (for short 'IPC') by the learned Judicial Magistrate of first Class, Utnoor in C.C. No.129 of 2013 by the judgment dated 25.04.2017, as affirmed by the learned V Additional District and Sessions Judge, Adilabad, in Criminal Appeal No.68 of 2017 by the judgment dated 12.09.2017, including the sentence of simple imprisonment of one year and fine of Rs.1,000/- with default sentence, while setting aside the conviction and sentence passed for the offence punishable under Section 338 of IPC.

2. Heard Sri Banda Prasad Rao, learned counsel for the revision petitioner, and the learned special Assistant Public Prosecutor for the State of Telangana, and perused the material on record.

3. Precisely to say, the learned Judicial Magistrate of first Class, having analysed the evidence of PWs.1 to 14, more particularly, the evidence of PWs.1, 3 and 9, who are eye-witnesses besides being injured, arrived at the finding that due to rash and negligent driving of the revision petitioner, who was driving a tipper lorry, hit PW.1's motorcycle, on account of which, the daughter of

PW.1 viz., Pooja, died and PW.3 sustained injuries. Incidentally, on a different two-wheeler, PW.3 along with his wife and their son were proceeding to Lingapur, when the incident took place. The daughter of PW.1, by name Pooja sustained serious injuries in the accident and when shifted to hospital, succumbed to the injuries there. The learned Magistrate having found that the accused, the revision petitioner herein, was even identified by PW.1 while in witness box and the evidence of PWs.3 and 9 proving his rash and negligent driving which occasioned the accident resulting in death of the daughter of PW.1 and injuries to PW.3, convicted and inflicted the sentences of imprisonment and fine for the offences punishable under Sections 304-A and 338 of IPC.

4. On appeal, the learned V Additional Sessions Judge, somehow, set aside the conviction recorded for the offence punishable under Section 338 of IPC and sentence inflicted including the fine while confirming the conviction for the offence punishable under Section 304-A IPC including the sentence of imprisonment for a period of one year and the fine amount of Rs.1,000/- imposed with default sentence.

5. The learned counsel would submit that the revision petitioner, in fact, was newly married and he has been in jail since 12.09.2017, on which date, the appeal was disposed of sending him to jail to serve out the sentence of imprisonment and he would, therefore, plead only mercy rather than any merits.

6. Perhaps, it is too difficult to strive on merits to succeed, for the reason, there is nothing in the cross-examination of PWs.1, 3 and 9, who are eye-witnesses, amongst whom, PW.3 is even injured, who identified the revision petitioner as driver of the accident tipper lorry and also spoke to the complicity of the revision petitioner in driving the tipper lorry in rash and negligent manner occasioning the accident.

7. Nothing more is required to once again look at the findings recorded by both the Courts below as the same do not suffer from any legal infirmity. The findings recorded and the conclusion arrived at in recording the conviction for the offence punishable under Section 304-A IPC would reflect that they are based on appreciation of evidence in accordance with evidentiary rule. When no perversity at all is to be found in the findings recorded by the Courts below, it is not a case where the findings are liable to be set aside. Thus, there is no merit in the present revision case and is liable to be dismissed so far as conviction of the revision petitioner for the offence punishable under Section 304-A of IPC is concerned.

8. So far as sentence of imprisonment is concerned, only factor that would weigh with the revision petitioner, as could be gathered from the submission made by the learned counsel, is that his marriage took place on 16.08.2017 and within a month thereafter, it appears, he was sentenced to jail on appeal being dismissed for the offence punishable under Section 304-A IPC. Keeping in view the same, the

sentence of imprisonment is reduced to six (6) months from one (1) year for the said offence.

9. With the above modification in sentence of imprisonment alone, the Criminal Revision Case is dismissed, at the admission stage itself, confirming the judgment of the lower appellate Court in all other aspects.

10. As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision stand dismissed.

January 4, 2018.
PV

A. SHANKAR NARAYANA, J

