

THE HONOURABLE SRI JUSTICE N.BALAYOGI

CRIMINAL REVISION CASE No.2489 of 2018

ORDER :

The petitioner is accused in STC No.4882 of 2017. Aggrieved by the judgment in Criminal Appeal No. 1193 of 2017 dated 01.08.2018, he preferred this petition.

2. The contention of the petitioner is that the sentence imposed is too excessive and harsh. The sentence of imprisonment will have effect on his future. Further contended that before sentencing he was not questioned with regard to the sentence.

3. Per contra, learned Public Prosecutor contended that the petitioner was driving the vehicle in a drunken state and the said sentence is sustainable.

4. The Inspector of Police, Banjara Hills filed STC No.4882 of 2017 against the petitioner for the offences under Section 185 (a), Section 130 r/w 177 of Motor Vehicles Act. The case of the prosecution is that on 02/03.06.2017 at 23.:06 hours, Inspector of Police, Traffic Police Station, Banjara Hills along with his staff conducted vehicle checking in a check point at Road No.12, Banjara Hills. At that time, the accused came there by Driving Four wheeler bearing No.AP 10 at 2658 and he was subjected to Alcohol Test with breath Analyzer wherein the printed result of the test shown the BAC level as 72Mg/100 ml,

which exceeded the permissible BAC level of 30 mg/ml as mentioned in Section 185 of Motor Vehicles Act.

5. The learned Magistrate took the cognizance of the offences under Section 185 (a), 130 r/w 177 of Motor Vehicles Act. All copies of the documents as required under Section 207 Cr.P.C. were furnished to the accused. Accused is examined under Section 251 Cr.P.C. for the offences punishable under Section 185 (a), 130 r/w 177 of Motor Vehicles Act and the accused admitted the offence.

6. Though it is a STC, the Trial Court in the judgment observed “ Heard respondents / accused on quantum of sentence” and on perusal of material on record, it appears that the respondent / accused was earlier convicted vide STC No.2770/2015 & 2524 of 2016 in the similar offence therein, the court below was not inclined to take a lenient view therefore, imposed sentence to undergo simple imprisonment for 20 days and also sentenced to pay fine of Rs.3000/-. The Accused is also convicted for the offence u/s. 130 r/w 177 of Motor Vehicles Act and sentenced to pay fine of Rs. 100/- (one hundred only), in default of payment of fine, accused shall suffer simple imprisonment for four days for each offence.

Further, though it is a conviction of sentence, the petitioner preferred Criminal Appeal No. 1193 of 2017 on the file of the Metropolitan Sessions Judge, Hyderabad, and the Court below dismissed the appeal by confirming the sentence.

7. During the course of arguments, the petitioner's counsel submits that the petitioner surrendered before the Court on 18.09.2018 and till today he has undergone 16 days of imprisonment and also paid the fine amount.

8. Having regard to the aforesaid facts and circumstances of the case and since the offences are of drunk and drive, and in view of the fact that the petitioner is already in jail from 18.09.2018 and he has paid the fine amount, conviction of sentence imposed on him for the aforesaid offences is restricted to the imprisonment he has already undergone.

9. Therefore, the petitioner is directed to be released forthwith, if he is not required in any other case.

10. With the above directions, the Criminal Revision Case is disposed of.

11. As a sequel thereto, Miscellaneous Petitions, if any, pending stand dismissed.

N.BALAYOGI, J

Date: 03.10.2018.

Note : Issue cc today
(B.O.)

JR

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JR