

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

CRIMINAL REVISION CASE No.1580 of 2006

ORDER:

The revision petitioner was convicted for the offence punishable under Section 304-A IPC vide judgment dated 01.07.2005 passed by the Judicial Magistrate of First Class, Zaheerabad (for short, 'the trial Court'), in C.C.No.107 of 2002, and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.300/-. In default of payment of fine, the accused shall further undergo simple imprisonment for one month. On filing appeal before the Special Sessions Judge for trial of offences under SC/ST(POA) Act, Medak, at Sangareddy (for short, 'the appellate Court'), in Criminal Appeal No.91 of 2005, the learned Sessions Judge dismissed the appeal, thereby affirmed the order of conviction and sentence passed by the trial Court. Challenging the same, the accused filed the present criminal revision case.

Brief facts of the case are that on 17.12.2001, at about 10:00 AM, the Sarpanch of Ibrahimpur village engaged the tractor bearing No.MEP 3028 for "Food for Work" programme, and the accused drove the said tractor for fetching water from his agricultural land for the purpose of laying road, and while getting water in the tractor trolley, the accused drove the tractor in a rash and negligent manner, due to which the trolley overturned and the deceased fell down underneath the trolley and died instantaneously. A case in Crime No.73 of 2001 came to be registered on the file of P.S. Hadnoor and after investigation, the police filed charge sheet which was taken on file as C.C.No.107 of 2002 by the trial Court.

On behalf of prosecution, PWs.1 to 11 were examined and Exs.P1 to P8 were marked. No one was examined on behalf of the defence, however, Exs.D1 and D2 were marked.

The trial Court, after considering the oral and documentary evidence, found the accused guilty of the offence punishable under Section 304 IPC, and accordingly convicted and sentenced as stated above.

On preferring appeal before the appellate Court by the accused, the appellate Court dismissed the appeal by affirming the conviction and sentence passed by the trial Court. Aggrieved thereby, the accused preferred this revision.

Heard learned counsel for the accused/revision petitioner, and the learned Public Prosecutor.

Learned counsel for the accused contends that there is no finding with respect to the rash and negligent driving and hence the conviction and sentence recorded against the accused are not sustainable.

Per contra, the learned Public Prosecutor submits that the evidence of eyewitness PW2 proves the rash and negligent act on the part of the accused and hence there is no illegality in the impugned judgment and hence the criminal revision petition is liable to be dismissed.

A perusal of the record discloses that the only eyewitness was PW.2, who was also traveling in the tractor trolley driven by the accused, categorically stated that on account of the accused driving the tractor in a speed manner, the tanker trolley overturned causing the death of the two persons who are minor boys. Though cross examination was conducted at length, so far as this aspect of the matter is concerned, the evidence of PW.2 remained undisturbed.

Though learned counsel for the revision petitioner vehemently contended that there is no finding that the accident occurred on account of the rash and negligent driving, the factum that PW.2 had spoken about the vehicle being driven in a speed manner cannot be ignored. It is the evidence of PW.2 that noticing the possibility of accident on account of speed driving by the accused, PW.2 had jumped out of the vehicle, which confirms that the vehicle was driven by the accused in a reckless manner.

In those circumstances, the finding recorded by the trial Court, as affirmed by the appellate Court, with respect to conviction of the accused for the offence punishable under Section 304-A IPC, does not warrant any interference and there is no reason for this Court to come to a different conclusion.

Coming to the quantum of sentence, considering the fact that the revision petitioner is an agriculturist and about 23 years old, this Court finds it appropriate to reduce the sentence to one month in place of six months.

Accordingly, the criminal revision case is partly-allowed by upholding the conviction of the petitioner for the offence punishable under Section 304-A IPC, however, modifying the sentence from six months simple imprisonment to simple imprisonment for a period of one month. The payment of fine of Rs.300/- and the default clause of undergoing simple imprisonment for a further period of one month in case of default in payment of fine of Rs.300/- shall stand unaltered. Miscellaneous petitions, if any pending, shall stand closed.

CHALLA KODANDA RAM, J

22nd January, 2020

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