

Bail Slip:- The Accused was directed to be released on bail by the order of the High Court dated 4-4-2013 in CrI.MP No. 943/13 in CrI.RC No. 603 of 2013

[3299]

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE TWENTY SIXTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 603 OF 2013

Criminal Revision Case filed under Section 397 & 401 against the Judgment dated 07.12.2012, made in Criminal Appeal No.45 of 2012 on the file of the Court of the Sessions Judge, at Mahabubnagar, preferred against the Judgment dated 02.03.2012, made in in CC.No.481 of 2009 on the file of the Judicial First Class Magistrate, at Mahabubnagar.

Between:

Achi Srinu, S/o. Kotaiah

...REVISION PETITIONER/ACCUSED

AND

The State of A.P., Rep., by its Public Prosecutor, High Court for the State of A.P. through P.S. Nawabpet

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner: SRI. L. HARISH

Counsel for the Respondent: SRI. VIZARATH ALI,

ASSISTANT PUBLIC PROSECUTOR

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL

CRIMINAL REVISION CASE NO.603 OF 2013

ORDER:

The Criminal Revision Case is filed aggrieved by the judgment dated 07.12.2012 in CrI.A.No.45 of 2012 on the file of learned Sessions Judge at Mahabubnagar (for short, "the appellate Court") in confirming the conviction and sentence passed by the judgment dated 02.03.2012 in C.C.No.481 of 2009 on the file of the learned Judicial Magistrate of First Class at Mahabubnagar (for short, "the trial Court").

2. Heard Sri L.Harish, learned counsel for the revision petitioner and Mr. Vizarath Ali, learned Assistant Public Prosecutor appearing for the respondent/State. Perused the record.

3. Brief facts of the case are that the Kalal Narsimulu Goud/*de-facto* complainant is resident of Kuchur Village. On 29.05.2009 at 07.15 hours, when the deceased was proceeding towards Rudraram Village on his motorcycle the revision petitioner/accused drove the R.T.C. bus bearing No.AP22W 6614 with high speed in a rash and negligent manner and dashed the motorcycle. Due to which he sustained severe injuries and he died

while undergoing treatment. Based on the said facts the present crime is registered.

4. The trial Court *vide* judgment cited *supra* found the petitioner/accused as not guilty for the offence punishable under Section 304-A of IPC and acquitted him. Aggrieved thereby, the petitioner preferred an appeal.

5. The appellate Court *vide* judgment cited *supra* allowed the appeal by setting aside the judgment passed by the trial Court. The accused was sentenced to undergo rigorous imprisonment for a period of one (1) year for the offence under Section 304-A IPC. Assailing the same, the present Revision.

6. Learned counsel for the petitioner contended that the appellate Court upon re-appreciating the evidence available on record in proper perspective, passed the judgment. Therefore, he seeks to set aside the impugned judgment.

7. Learned Assistant Public Prosecutor submitted that the appellate Court after careful consideration of the material placed on record rightly passed the impugned judgment. Therefore, the interference of this Court is unwarranted and therefore he seeks to dismiss the revision.

8. On behalf of prosecution, the trial Court examined PWs.1 to 11 and got marked Exs.P1 to P7. On behalf of the defence, none were examined and no document was marked. Upon careful scrutiny of the material, the trial Court observed that PW.1 is the deceased. PWs.2 and 3 are witnesses, who claimed to have seen the accident who attributed the accident to the rash and negligence of the accused. PW.2 is the relative of the deceased. PW.3 is another eye witness of the incident and supported the prosecution. PWs.4 to 7 are none of the witnesses. PW.5 is the panch witness for the scene of offence panchanama. PW.6 is the panch witness for inquest proceedings, who is the Asst. Professor in the Department of Forensic Medicine, Osmania Medical College, Hyderabad. PW.7 is the Motor Vehicle Inspector. PW.8 is the Sub-Inspector of Police. PW.9 is the PME Report. PW.10 is Head Constable, who conducted inquest over the dead body of the deceased. PW.11 is the scene of offence panchanama. The trial Court observed that when both vehicles which are involved in the accident are not produced before the Court, it is for the prosecution to prove that the rider of the motor bike was caused the accident. Therefore, in the present case on hand, the prosecution failed to prove that there is rash and negligent driving of the crime bus and thus found the accused not guilty for

the offence under Section 304-A IPC. Therefore, the trial Court rendered the judgment cited *supra* and acquitted the accused.

9. The appellate Court observed that the evidence of PWs.2 and 3 is cogent and consistent with regard to material particulars. Considering the evidence of PWs.1 and 4 (PWs.2 and 3), the appellate Court found that on 29.05.2009, the accused drove the RTC bus in a rash and negligent manner and dashed the motorcycle of the Kalal Narsimulu Goud. Due to which, Kalal Narsimulu Goud sustained severe injuries and while undergoing treatment he died. Thus, there was a direct nexus of the death of the deceased with the injuries sustained in the accident. Thus, the appellate Court found that the prosecution has proved the guilt of the accused.

10. A perusal of the record shows that this Court *vide* order dated 04.04.2013 suspended the sentence alone and enlarged the petitioner on bail on condition of his executing a personal bond for a sum of Rs.5,000/- with two sureties each for a like sum to the satisfaction of the trial Court.

11. In the present case on hand, the appellate Court found that the accused not guilty for the offence punishable under Section 304-A of IPC and convicted him under Section 255 (1) of Cr.P.C.,

which finding, in my considered view, does not call for interference in the exercise of revisional jurisdiction under Section 397 Cr.P.C.

12. There are no grounds and much less valid grounds to interfere with the well considered judgment of appellate Court and accordingly, this Revision is liable to be dismissed.

13. Having regard to the submissions made by both the learned counsel and upon considering the fact that the petitioner suffered mental agony by roaming around the trial Court as well as the appellate Court, this Court is inclined to take a lenient view by reducing the sentence imposed on the petitioner to the period of imprisonment already undergone by him.

14. However, the petitioner is directed to pay an amount of Rs.90,000/- to the credit of the C.C.No.481 of 2009 in the trial Court within a period of six months from today, upon proper proof and acknowledgement. On such deposit, the legal heirs of the deceased are entitled to withdraw the same under proper proof and acknowledgement without furnishing any security.

15. In default, the judgment dated 07.12.2012 in CrI.A.No.45 of 2012 on the file of learned Sessions Judge at Mahabubnagar stands good in all respects.

16. Except the above modification, in all other aspects, the Criminal Revision Case stands dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- I. NAGA LAKSHMI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Sessions Judge, at Mahabubnagar
2. The Judicial First Class Magistrate, at Mahabubnagar.
3. The Station House Officer, Nawabpet, Mahaboobnagar District
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
5. One CC to SRI. L HARISH Advocate [OPUC]
6. Two CD Copies

BR/VH

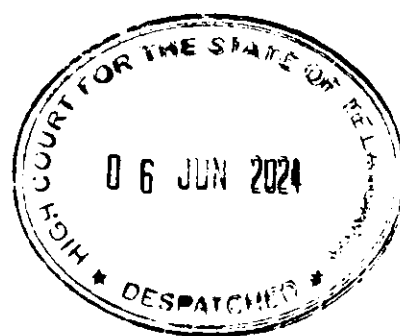
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HIGH COURT

DATED: 26/02/2024

ORDER

CRLRC.No.603 of 2013



DISMISSING THE CRL.R.C

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