

Bail Slip:- The Accused was directed to be released on bail by the order of the High Court dated 28-05-2008 in CrI.MP No. 1050 of 2008 in CrI.RC. No. 751 of 2008

[3299]

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

**FRIDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 751 OF 2008

Criminal Revision Case filed under Section 397 and 401 of CrPC against Judgment dated 21.05.2008 in CrI.A.No. 116 of 2007 on the file of the Principal Sessions Judge, Nalgonda, preferred against the Judgment dated 21-08-2007 made in CC.No. 261 of 2006 on the file of Special Judicial First Class Magistrate (For Prohibition & Excise Offences), Nalgonda.

Between:

Dasarapalle Anand S/o. Chinnappa, Hindu, aged about 35 years, Occ: Driver,
R/o. Nagar Kurnool, Mahabubnagar District.

...PETITIONER/ACCUSED

AND

The State of Andhra Pradesh, rep. by Public Prosecutor, High Court of Andhra Pradesh, Hyderabad.(Through SHO, Kanagal, Nalgonda District.)

...RESPONDENTS

Cr.M.P.No.1050 of 2008:

Petition Under Section 482 of Cr.P.C praying that in this Hon'ble Court may be pleased to Suspend the sentence, passed in CrI.A No. 116 of 2007 dated 21.05.2008 by the PrI.Sessions Judge, Nalgonda (preferred against the Judgment in CC No. 261/2006 dt.21.08.2007 on the file of the Spl. Judicial First Class Magistrate, (P&E) Nalgonda and enlarge the Petitioner/Accused on bail pending the above CrI.Revision Case.

Counsel for the Petitioner: SRI. Y. KOTESWAR RAO

Counsel for the Respondent: SRI. VIZARATH ALI,

ASSISTANT PUBLIC PROSECUTOR

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE E.V. VENUGOPAL**CRIMINAL REVISION CASE No.751 of 2008****ORDER:**

This criminal revision case is filed against the Judgment dated 21.05.2008 passed by the Principal Sessions Judge, Nalgonda, (for short, 'the appellate Court') in Criminal Appeal No.114 of 2007, where by and whereunder the appellate Court dismissed the appeal thereby confirming the conviction and sentence recorded by the Special Judicial Magistrate of First Class (for prohibition and excise offences), Nalgonda, (for short. 'the trial Court') in C.C.No.261 of 2006, against the revision petitioner for the offence under Section 304-A IPC, and sentencing to suffer Rigorous Imprisonment for one year, and to pay fine of Rs.500/-, and in default, to undergo Simple Imprisonment for three months.

2. Brief facts of the case are that on 15.12.2005 at about 10:00 hours, while the son of the complainant viz., ShaikLatheef, who was studying 4th class, was crossing the road in order to go to school at Kashavarigudem, Hamlet of Cherlagowram, meanwhile a Jeep bearing No.AP-22D-2429, driven by the accused came in a rash and negligent manner, from Halia side and dashed the deceased, as a result of which the deceased sustained grievous injuries and succumbed to the injuries while undergoing treatment at Government

Headquarters Hospital, Nalgonda. The accident was reported with the Police of Kanagal, who registered a case in Crime No.75 of 2005 against the driver of the jeep viz., the accused for the offence under Section 304-A IPC. After completion of investigation, police filed charge sheet against the accused for the offence under Section 304-A IPC and the same was taken on file by the trial Court as C.C.No.261 of 2006 for the offence under Section 304-A IPC.

3. The trial Court examined prosecution witnesses PWs.1 to 11 and marked Exs.P1 to P7. No oral or documentary evidence was adduced by the accused. The trial Court, after considering the evidence and material on record, convicted the accused as aforestated. The accused went in appeal in CrI.A.No.114 of 2007 and the appellate Court dismissed the appeal by affirming the conviction and sentence passed by the trial Court; and therefore the accused is before this Court with this revision petition.

4. Heard the learned counsel Satyasri appearing on behalf of the revision petitioner; and the learned Additional Public Prosecutor.

5. Learned counsel for the revision petitioner submits that the victim need not cross the road to go to school as the school and his house are on the same side of the road. It is further contended that the Doctor who treated the victim

was not examined as witness, and also the investigating officer who was head constable was not examined and that PW1 did not lodge any complaint Ex:P1 with the police, and that the evidence of eye witness PW4 was not considered in correct perspective, and therefore the impugned judgment is liable to be set aside by allowing the revision petition.

6. Learned Additional Public Prosecutor submits that PW1 the father of the deceased was a stone cutter by profession and he was informed by one Shaik Bee about the accident and he rushed to the hospital and found his son with injuries and lodged the complaint with the police. The accident and death of son of PW1 is not in dispute. It is further contended that PW2 is the Head master of the school and it is his evidence that on 15.12 2005 at about 9.00 am, while he was in school, he heard about the accident and he went to the place of occurrence and noticed the deceased being shifted to the hospital and he stated that the accused was the driver of the vehicle. It is further contended that PW3 by name M. Inyasamma is a teacher working at the school, and on the date of occurrence she went to the scene of offence and noticed that a body was lying in jeep with injuries and in the cross examination she stated that there was no need for the student to cross the road to reach the school as the school and house are located

on the western side of Sager road. It is further contended that PW4 who is an eye witness to the occurrence stated that he witnessed the jeep coming from Halia side driven in a rash and negligent manner with high speed and dashed the school boy while he was crossing the road and the boy suffered injuries and he was shifted to Government Hospital in the same jeep. He stated that the accused was driver of jeep at the time of occurrence of accident. PW4 also stated that PWs.2 and 3 were present at the time of occurrence of accident. PW5 also stated that a jeep coming from Halia side driven by its driver in a rash and negligent manner with high speed dashed the deceased while crossing the road and the boy was shifted to the hospital in the same jeep and he succumbed to injuries. PW6 who took the deceased to the hospital in the same jeep along with other teachers stated that the driver drove the jeep in a rash and negligent manner and dashed the deceased. PW7 is a panch witness for inquest. Ex.P3 is inquest panchanama, and PW7 stated that on 15.12.2005 the police of Kanagal have conducted the inquest panchanama over the dead body of the deceased at Government Hospital and he noticed the deceased lying with injuries to the head. PW8 is also a panch witness for the scene of offence panchanama and it is stated that the police prepared observation panchanama in his presence at Kashivarigudem village and he noticed some blood marks and diesel oil on the

road and he came to know that the jeep was involved in the accident. Ex.P4 is the rough sketch of the scene of offence and Ex.P5 is the scene of offence panchanama. PW9 is Dr. B.Madhu conducted post-mortem examination over the dead body of deceased and issued PME report opining that the cause of death was head injury it might have caused due to road accident. PW.11 is Motor Vehicle Inspector and according to him the SHO, Kanagal, inspected the crime vehicle AP-22D-2429 and found no damages and brake system was intact, and issued Ex.P7 report. PW-10 is the S.I of police who registered the case in Crime No.75 of 2005 against the accused for the offence under Section 304-A IPC and recorded the statement of PW-1 and as he was on Bandobast duty he issued a Memo to the Head Constable to investigate the case.

7. Learned Additional Public Prosecutor therefore submits that there is no illegality in the order passed by the Courts below and the criminal revision case is liable to be dismissed.

8. It can be seen from the record that the school boy was crossing the road and the jeep driven by the accused hit the boy; and the motor vehicle inspector report discloses that there was no damage to the jeep and the braking system was intact and the circumstances indicate that there is negligence on the part of

accused in driving the jeep. Further the evidence of PW6 eye witness establish that they witnessed the occurrence and the accident occurred due to rash and negligence on the part of accused causing the death of school boy; and though it is the defence of the accused that the boy was hit by a lorry and not his jeep, the evidence on record discloses that no lorry was noticed by PWs.2 and 4 at the scene of offence.

9. Having considered the respective submissions, and on perusing the material on record, this Court is of the view that there is no illegality or infirmity in the order passed by the Courts below and the criminal revision case is liable to be dismissed.

10. Accordingly, the criminal revision case is dismissed, however, the sentence of rigorous imprisonment is modified to six months, and to pay fine of Rs.500/- in default to undergo simple imprisonment for three months. Interlocutory applications, if any pending, shall also stand dismissed.

Sd/- CH.VENKATESWARLU
DEPUTY REGISTRAR
SECTION OFFICER

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To,

1. The Principal Sessions Judge, Nalgonda.(with records)
2. The Special Judicial First Class Magistrate (For Prohibition & Excise Offences), Nalgonda.
3. The Superintendent, District Jail, Nalgonda.
4. The The Station House Officer, Kangal, Nalgonda.
5. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
6. One CC to SRI. Y. KOTESWAR RAO, Advocate [OPUC]
7. Two CD Copies

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HIGH COURT

DATED: 02/02/2024

ORDER

CRLRC.No.751 of 2008



DISMISSING THE CRL.R.C

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