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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 40/2022**
STATE

.....Petitioner

Through: Mr. Aashneet Singh, APP
SI Kamlesh, PS Bawana

versus

VIJAY GOEL

.....Respondent

Through: Mr. Satyam Thareja, Ms.
Vasundhara Nagrath, Mr.
Manish Narang, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

03.02.2025

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1. This is a petition filed by the State seeking leave to appeal challenging the judgment dated 22.03.2021 passed by the learned ASJ-04, North District, Rohini Courts, New Delhi in CRL.A. No. 100/2020, thereby setting aside the conviction of the respondent in SC No. 5285778/2016 under Sections 287 and 304A of IPC, *vide* judgement of conviction dated 30.05.2020 passed by the learned MM, North-05, Rohini Courts, Delhi.
2. The brief facts of the case as per the petitioner are that on 06.07.2010, at about 3:40 pm, at Factory No. O-34, Sector-1, DSIDC, Bawana, Delhi, the factory owner (respondent) neglected to implement essential safety measures for the power press machine. This negligence compelled the worker, Ratnu @ Rattan (deceased), to operate the machine in unsafe conditions, resulting in injuries that ultimately caused his death. Hence, the F.I.R under Sections 287 and 304A of IPC was registered.
3. On completion of the investigation, a charge sheet for offences punishable under Sections 287 and 304A of IPC was filed, to which the



respondent pleaded not guilty and claimed trial.

4. The prosecution examined a total of 9 witnesses and the statement of the accused was recorded under Section 313 of CrPC. The respondent did not lead any defence evidence.

5. The learned MM after considering the entire evidence *vide* the judgement dated 30.05.2020 convicted the respondent under 287 and 304A of IPC.

6. Thereafter, the respondent filed an appeal against his conviction before the learned Sessions Court whereby *vide* the impugned judgement dated 22.03.2021, the learned Sessions Court set aside the judgement dated 30.05.2020 passed by the learned MM and acquitted the accused.

7. Aggrieved by the judgment dated 22.03.2021, the State prefers the present appeal.

8. Mr. Singh, learned APP appearing on behalf of the appellant has challenged the impugned judgement and has relied upon the testimony of PW-5 who states that there are clear averments regarding the negligence on part of the respondent which led to the death of the deceased. Hence, the order of the learned Sessions Judge needs to be set aside and the order of the learned MM convicting the respondent needs to be restored.

9. Learned counsel appearing on behalf of the respondent supports the impugned judgement and submit that the prosecution has failed to establish and lead clear and cogent evidence. Hence, the prosecution has failed to prove the case beyond reasonable doubt against the respondent.

10. I have heard learned counsel for the parties and perused the material available on record.

11. The operative part of the impugned judgement reads as under:



“5. Heard. The whole of the prosecution case rests on the testimony of PW5 Sunil Kumar and PW7 Retired ASI/Tech. Devener Kumar. Now, it is to be seen what both these witnesses have deposed in their testimony before the Court. PW5 deposed that on 06/07/2010, he used to work in factory no. 0-34, Sector-1, DSIDC Bawana, Delhi, as labour and deceased Ratnu @ Rattan Lal was also working in the same factory as helper. He further deposed that at about 01.00 p.m., some labour was working on the pressing machine (the machine on which making of hinges is done) and Rattan Lal was sitting beside it, helping the labour and suddenly one hinge hit Rattan Lal on his chest, who immediately removed it from his hand and threw it on the ground and was removed to hospital by the factory owner i.e. appellant/accused. He further deposed that pressing machine did not have any safety cover due to which the present incident occurred and the owner did not put any safety cover of the said machine despite the repeated requests of the workers. The version of PW5 is not corroborated by any other witness. Neither there is any other witness in this regard. It is quite surprising that a factory where the manufacturing work was going on, the IO recorded statement of only one witness, whereas there would have been many other co-workers who were working there. If the testimony of PW5 is read with the testimony of PW7, who has given the mechanical inspection report, it is nowhere mentioned that safety cover was essential for providing safety to the workers.



*The fact that cover was necessary for the safety of the workers, was very essential for the prosecution. Merely statement of a worker that cover was not on the machine is not sufficient. Prosecution was required to place either some safety guidelines or machine operating needs in this regard which has not been done in the present case. Only after this fact, negligent behavior of the accused/appellant could be ascertained. **In these circumstances, testimony of PW5 cannot be given much weightage regarding demand of cover for machine.** During course of arguments, ld. Counsel for the appellant/accused has submitted that ld. Trial Court erred while stating in the impugned judgment that the testimony of PW5 Sunil Kumar stands corroborated by the testimony of other prosecution witnesses including PW3 W/ASI Bhagwan Devi and PM report of the deceased Ratunu @ Rattan Lal. The said submission of ld. Counsel is tenable in view of the fact that PW3 W/ASI Bhagwan Devi is a formal witness who recorded DD no.21 and has proved the same as Ex. PW3/A. She has recorded DD no.21 on the basis of information received from M.B. Hospital given by Duty Ct. Ayub Khan that Ratnu @ Rattan Lal had sustained injury while working in the factory who was brought by the appellant/accused Vijay Goel. The contents of the FIR cannot be taken in this perspective that the statement of PW5 gets further corroborated from FIR as the Court is duty bound to see the evidence of the witnesses in totality. In the mechanical report, the machine was found ok and it was not stated therein*



that covering of the machine is essential. The conduct of the appellant/accused is also evident from the fact that he immediately brought the injured (since deceased) to hospital for treatment. As regards the PM report, the concerned doctor neither has been arrayed as witness in the list of witnesses nor the said report has been proved on record. Hence, the same would not have been taken into consideration.

6. Section 287 IPC & 304A IPC are criminal offences related to rash and negligent acts. In this regard, clear rash and negligent act is essential. In the absence of any, report that the machine was old, dysfunctional or was required any repair work, or was required any safety cover, which was not provided by the appellant/accused to his workers, the conviction of the accused/appellant cannot be upheld.

7. In view of the aforesaid reasons, I am not in agreement with the reasoning given by Id. Trial Court in the impugned judgment of conviction. Accordingly, the impugned judgment of conviction and order on set aside. The appellant/accused is acquitted. The appeal is allowed.”

12. On perusal, the prosecution primarily relied on the testimony of PW5. PW5 deposed about the alleged incident, however, the Appellate Court has correctly noted that the testimony of PW5 was uncorroborated by other witnesses thereby raising doubts about its reliability, especially since the IO recorded the statement of only one witness despite the presence of other workers at the time of the incident.

13. The Appellate Court also highlighted the prosecution’s failure to



provide evidence of safety guidelines or standard operating procedures for the machine, which was essential to establish negligence.

14. The mechanical inspection report proved by PW7 indicated that the machine was functioning properly and did not specify the necessity of a safety cover, further weakening the prosecution's case.

15. Additionally, the prompt action of the factory owner (respondent) in taking the injured worker (deceased) to the hospital was viewed favorably by the Appellate Court.

16. In this view of the matter, in my considered opinion, the learned Appellate Court has correctly come to the finding that the prosecution has failed to prove the case beyond reasonable doubt and hence, it was right in acquitting the respondent.

17. For the said reasons, I am of the view that the impugned judgement dated dated 22.03.2021 passed by the learned ASJ-04, North District, Rohini Courts, New Delhi in CRL.A. No. 100/2020, thereby setting aside the conviction of the respondent in SC No. 5285778/2016 under Sections 287 and 304A of IPC, *vide* judgement of conviction dated 30.05.2020 passed by the learned MM, North-05, Rohini Courts, Delhi, is well reasoned and does not require any interference.

18. For the said reasons, the leave to appeal is dismissed.

19. Consequently, the appeal has become infructuous and is disposed of.

JASMEET SINGH, J

FEBRUARY 3, 2025/sp *Click here to check corrigendum, if any*



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