APHC010428302010

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3560]**
(Special Original Jurisdiction)

THURSDAY, THE 29th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 328 OF 2010

Between:

1. KNANAPARTHI MALYADRI, S/O. BRAHMAIAH, DRIVER, R/O. CHERUVU KOMMU PALEM VILLAGE, PONNALURU MANDAL, PRAKASAM DISTRICT.

...PETITIONER

AND

1. THE STATE OF A P REP BY PP, High Court of A.P.,Hyderabad through Inspector of police , Inkollu Circle, Inkollu, Prakasam District

...RESPONDENT

Counsel for the Petitioner:

1. J U M V PRASAD

Counsel for the Respondent:

1. PUBLIC PROSECUTOR

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 328 OF 2010

ORDER:

1. Instant Criminal Revision Case has been preferred against Judgment, dated 25.01.2010 passed by I Additional District and Sessions Judge, Prakasam District at Ongole, in Criminal AppealNo.83 of 2009 wherein and where under he confirmed the order of conviction and sentence passed against the petitioner for the offence punishable under section 304A of the Indian Penal Code in C.C.No.214 of 2004, dated 11.06.2009 by learned Judicial Magistrate of First Class, Addanki.

Brief facts of the prosecution case are that:

2. On 08.06.2004 at about 6.00 hours petitioner being driver of a lorry bearing Regn. No.AP16 X 6156 was coming from Palakollu side with a load of broke rice to go to Chennai. 17 passengers were boarded in the TATA Sumo bearing No. AP-1/U-3703, were returning from Tirupati. It has been alleged by the prosecution that the accused drove the lorry with high speed, in a rash and negligent manner, while proceeding from Chilakaluripet side towards Ongole side and lost control over the lorry and dashed against TATA Sumo, as a result, the TATA Sumo was completely damaged, 17 passengers were died on the spot. After completion of investigation, police submitted charge sheet and Calendar Case was started.

3. During trial, prosecution has examined as many as 17 witnesses asP.W.1 to P.W.17 and several documents were marked as Ex.P.1 to Ex.P.42.

4. On behalf of defence no oral or documentary evidences were adduced.

5. After hearing both side counsels, upon perusing the oral and documentary evidences, learned trial court found the petitioner guilty for the offence punishable under section 304A of the Indian Penal Code and sentenced him to undergo Rigorous Imprisonment for a period of two (02) years and to pay a fine of Rs.2,000/- (Rupees two thousand only), in default of payment of fine amount, to suffer simple imprisonment for a period of two (02) months.

6. Such order of conviction went up to appeal, but the appeal was dismissed confirming the order of conviction. Hence, this Criminal Revision Case has been preferred.

Submissions of learned counsel for Petitioner:

7. Learned counsel for the petitioner submits that the impugned orders passed by learned Trial Court as well as learned Appellate Court is illegal and improper, there is no direct evidence in the instant case, the prosecution has failed to establish that petitioner drove the vehicle in a rash

and negligent manner. Moreover, there is no witness to say that petitioner was driving the offending vehicle at the time of accident. He further submits that though 17 (seventeen) passengers were expired, but for that reason, the petitioner cannot be held liable.

Submission of learned Additional Public Prosecutor:

8. Learned Additional Public Prosecutor - Sri Panini Somayaji submitted that the learned Trial Court and learned Appellate Court has gone through the evidence properly and scanned the evidences and circumstance. He further submitted that the learned Appellate Court in paragraphs 16 and 17 has gone through the evidentiary value of scene of offence observation report - Ex.P.23 which clearly establishes that petitioner was driver of the vehicle driving the vehicle in a rash and negligent manner, thereby, impact resulted loss of 17 lives. He further submits that at this juncture, in the criminal revision case, it is not possible for this court to clarify the merit of evidentiary values.

Observation of Court:

9. Heard learned counsel on both sides, perused the finding of the learned Trial Court as well as learned Appellate Court.

10. To prove the case against petitioner for the offence under section 304A of the Indian Penal Code, the prosecution has examined as many as 17 witnesses. Among them, P.W.1 and P.W.2 were placed as eyewitnesses of

the accident. Both P.W.1 andP.W.2 turned hostile. P.W.1 reached at place of occurrence after hearing loud accident noise. P.W.2 is a paddle van puller, who carried dead bodies. Though accident happened over National Highway at day time, prosecution could not produce any passersby or another car driver to be eyewitness of the accident. Admittedly, there is no direct witness before the learned trial court who has seen the accident. However, learned Appellate Court in analyzing the scene observation report – Ex.P.23, is of the view that the road is four lanes road at the place of accident, one lane (eastern side) was not in use, thereby, vehicles allowed to pass through the Western side lane. The Western side lane is the right line for TATA Sumo, but is a wrong lane for lorry. On the said observation, it was the finding of learned Appellate Court that while the accused drove the lorry in a wrong lane, he should had taken proper care and caution. Learned Appellate Court has also observed the scene observation report regarding skid mark over the lane/road; it was noted therein that after the accident, the lorry went up to a distance of 22 feet forward and the TATA Sumo went to a distance of 60 feet to the back side, thereby, learned Appellate Court is of the opinion that the impact of lorry is more, thereby, the accused drove the lorry in a high speed and rash and negligent manner.

11. Admittedly, in this case, there is no direct evidence. Thus, the case has to be proved on the basis of circumstantial evidence. In analyzing the circumstances, learned Appellate Court has only placed reliance upon

Ex.P.23 (scene observation report). The scene observation report was recorded by investigation officer. In this case, investigation officer was not examined, as it has been submitted that the investigation officer was expired during the trial of this case. Learned Trial Court in paragraph No.25 of the judgment has observed that the non-examination of investigation officer will not cause prejudice to the accused. He further observed that unless contrary is proved under section 114(e) of the Indian Evidence Act, the accused failed to establish any circumstances which are rendering the non-examination of investigation officer will cause prejudice to him. Thus, it cannot be said that he has been prejudiced.

12. It is true, that an accident has happened. Ex.P.23 - rough sketch map and Ex.P.4 photographs were taken after some time of the accident and there was no direct evidence of the said accident. The accident may have occurred due to the negligence of somebody, but for that reason a crime cannot be established against petitioner, since the petitioner was driving a heavy vehicle. The impact of such accident must be more upon the light vehicle i.e. TATA Sumo.

13. To establish a charge under section304A of the Indian Penal Code, the prosecution has to prove that accused was driving vehicle in a rash and negligent manner at the time of alleged accident. Except Ex.P.23, there was no evidence to establish that accused was driving the vehicle in a rash and negligent manner. No prosecution witness stated about the manner of

accident. Moreover, Ex.P.23 is scene observation report prepared by investigation officer. Even if the clarification of Appellate Court regarding evidentiary value ofEx.P.23 is taken to be true, that cannot also solely prove circumstances for which it can be said that the accused drove the vehicle in a rash and negligent manner. Ex.P.23 is only a documentary evidence which said to be true replica of scene observation report. The sketch map was not properly proved by the investigation officer. Thus their value cannot substitute requirement of substantive evidence. Moreover, the scene observation report cannot itself prove the circumstances that the petitioner being the driver of lorry, was responsible for the accident. It may happen that driver of the TATA Sumo who was driving in his line may have drove the vehicle in a high speed and dashed the heavy vehicle at the time of accident. More curious, how a TATA Sumo car can carry 17 passengers. Thereby, in my view, the prosecution has failed to establish the guilt of the petitioner regarding rash and negligent driving beyond reasonable doubt.

14. The running of lorry on the western side of the line was permitted as eastern side way was not in use, thereby, the learned Appellate Court cannot held that the petitioner drove the lorry in a wrong side. It is quite clear that when in four lanes highway one side was blocked due to some repair works etc., the vehicles were allowed to ply in a single side. The accident occurred in the early morning at 6.00 hours. There may have other vehicles of each side of the lanes, but surprisingly, prosecution could not produce a single

eyewitness in this case. The guilt of the petitioner cannot be proved only on the basis of the report prepared by police i.e., Ex.P.23. If a crime is allowed to be established only on the basis of report of the police, that would be a dangerous proposition of law. However, it is true that the petitioner was driving the offending lorry at the time of accident, as it was proved properly by the evidence of P.W.3, but the prosecution has failed to establish that the petitioner drove the vehicle in a rash and negligent manner causing such accident.

15. Admittedly, the accident has occurred for the cause of either rash and /or negligent driving of petitioner, or driver of the TATA Sumo may have contributed negligence. It is trite law when two views are possible in a case, the view supporting the accused has to be accepted. Thus reasonable doubt exists in this case. Thus, prosecution failed to bring home the charge beyond reasonable doubt. At this juncture, I am of the view that the order of conviction and sentence passed by learned Trial Court for the offence punishable under section304A of the Indian Penal Code appears to be illegal and improper and the same is hereby set aside.

16. Accordingly, the petitioner /Accused is hereby acquitted from this case.

The sureties standing in favour of the petitioner/Accused are also released.

17. On the above observation, the Criminal Revision Case is allowed.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

SRI JUSTICESUBHENDU SAMANTA

Dated 29.10.2026
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THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 328 OF 2010

Dated:29.10.2026.

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