APHC010596102009

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

MONDAY, THE 16th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 813/2009

Between:

1. REVEEPALLI APPALA NAIDU,, S/O. RAMU NAIDU, R/O. VECHALAM VILLAGE, DEVARAPALLI MANDAL, VISAKHAPATNAM DISTRICT.

...PETITIONER

AND

1. THE STATE OF A P REP BY PP, REP BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P., HYDERABAD

...RESPONDENT

Revision filed under Section 397/401 of CRPC praying that in the circumstances stated in the Memorandum of grounds filed in support of the Criminal Revision Case, the High Court may be pleased to file the against the judgment and sentence passed by the learned V II Addl. District judge (Fast Track Court) Visakhapatnam, dt.14.5.2009 in Crl.A.No.63/2008

IA NO: 1 OF 2009(CRLRCMP 1101 OF 2009

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to dispense with the filing of the certified copy of the order dated 07.08.2008 in CC.No.309 of 2002 on the file of the Addl. Judicial Magistrate, Chodavaram

IA NO: 2 OF 2009(CRLRCMP 1117 OF 2009

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased

Counsel for the Petitioner:

1. A V S LAXMI

Counsel for the Respondent:

1. PUBLIC PROSECUTOR

The Court made the following order:

1. Instant criminal revision case has been preferred against judgment dated 14.05.2009 passed in Criminal Appeal No.63 of 2008 by learned VII Additional District and Sessions Judge (Fast Track Court), Visakhapatnam, wherein learned appellate court has confirmed conviction and sentence imposed upon petitioner for the offence punishable under Section 304-A of Indian Penal Code, 1860 (for short, '**I.P.C.**') by learned Additional Judicial Magistrate of First Class, Chodavaram, vide judgment dated 07.08.2008 in C.C.No.309 of 2002.

2. **Brief facts of prosecution case:**

2.1. On 13.04.2002, at about 15:15 hours, deceased ChitikelaAmmathalli was proceeding on his bicycle towards his agricultural field from Lakkavaram village. When he reached Issarapuvari threshing floor, accused, who was driving a private bus bearing registration No.AP 31 U 4433 towards Devarapalli, allegedly drove it in a rash and negligent manner, dashed against deceased from behind and dragged him for some distance. As a result, deceased sustained severe injuries to his right leg, knee and ankle. He was initially shifted to Government Hospital, Chodavaram, and thereafter referred to King George

Hospital, Visakhapatnam, where he succumbed to injuries while undergoing treatment.

2.2. On report lodged by L.W.1, police registered a case in Crime No.40 of 2002, initially for the offence punishable under Section 338 of I.P.C. Subsequently, upon death of injured, section of law was altered to Section 304-A of I.P.C. After completion of investigation, police filed charge sheet against petitioner, who was subjected to trial before learned Magistrate.

2.3. During trial, prosecution examined nine witnesses as P.Ws.1 to 9 and marked seven documents as Exs.P.1 to P.7. No oral or documentary evidence was adduced on behalf of defence. After appreciating evidence on record and hearing arguments advanced by both sides, learned trial court found petitioner guilty of the offence punishable under Section 304-A of I.P.C. and sentenced him to undergo simple imprisonment for one year and to pay a fine of Rs.100/-, in default to undergo simple imprisonment for one month.

2.4. Aggrieved by said conviction and sentence, petitioner preferred Criminal Appeal No.63 of 2008 before learned appellate court. By impugned judgment, learned appellate court dismissed appeal, confirming conviction and sentence imposed by learned trial court. Hence, this revision.

3. SUBMISSIONS OF LEARNED COUNSEL FOR PETITIONER:

3.1 Learned counsel for petitioner has restricted his submission on point that there is no direct eyewitness to establish that petitioner drove offending vehicle in a rash and negligent manner.

3.2 He submits that evidence of P.W.2 reveals that he was proceeding on his bicycle ahead of deceased and, upon hearing noise, stopped his bicycle and noticed deceased lying underneath front tyre of bus. This clearly suggests that P.W.2 had not actually witnessed accident, therefore, could not state as to whose negligence resulted in accident.

3.3 He further submits that P.W.3 was working in his agricultural field, situated at a distance of about 100 metres from accident spot, and reached scene only after hearing noise. Therefore, P.W.3 also had not witnessed actual occurrence. Learned counsel contends that evidence of P.Ws.2 and 3 does not establish rash and negligent driving on part of petitioner.

3.4 He further submits that road at place of occurrence was very narrow, with ditches on either side, and it was not possible for offending bus to be driven at high speed. He contends that prosecution failed to establish essential ingredients of offence punishable under Section 304-A of I.P.C. beyond reasonable doubt.

3.5 Learned counsel further submits that incident occurred in the year 2002 and petitioner has been facing criminal litigation for more than

two decades. Therefore, considering prolonged pendency of criminal proceedings, he requests this Court to take a lenient view in matter of sentence.

4. SUBMISSIONS OF LEARNED ASSISTANT PUBLIC PROSECUTOR:

4.1 Learned Assistant Public Prosecutor opposes submissions made by learned counsel for petitioner and submits that prosecution has sufficiently established guilt of petitioner through evidence of P.Ws.2 and 3, who supported prosecution case.

4.2 He further submits that evidence of prosecution witnesses establishes that petitioner was driving offending bus in a rash and negligent manner. When road was narrow, driver of bus ought to have exercised greater care and caution while driving vehicle, particularly when cyclists were proceeding on road.

4.3 He submits that P.W.2 was proceeding ahead of deceased and noticed offending bus coming from behind at speed while sounding horn. After hearing noise, he stopped his bicycle and found deceased underneath front tyre of bus. P.W.3, who was working in a nearby agricultural field, also noticed deceased underneath bus and identified petitioner as driver of offending vehicle.

4.4 Learned Assistant Public Prosecutor further submits that evidence of P.Ws.2 and 3, coupled with other material available on record,

sufficiently establishes involvement of petitioner in accident and rash and negligent driving attributed to him. He further submits that both Courts below have concurrently found petitioner guilty of offence punishable under Section 304-A of I.P.C. and, therefore, no interference is warranted.

5. OBSERVATIONS OF THIS COURT:

5.1 Petitioner was found guilty of offence punishable under Section 304-A of I.P.C. on allegation that he drove offending bus in a rash and negligent manner, resulting in death of deceased. Prosecution is dutybound to establish essential ingredients of offence punishable under Section 304-A of I.P.C., that death was caused by a rash or negligent act of accused.

5.2 In the present case, P.Ws.2 and 3 were examined by prosecution as eyewitnesses to the incident. Learned counsel for the petitioner contended that P.W.2 had not actually witnessed the accident and, therefore, was not in a position to speak about whose negligence had caused the accident, P.W.3 categorically deposed that, at the time of the accident, he was proceeding just behind the deceased.

5.3 Learned trial court and the appellate court have concurrently held that evidence of P.Ws.2 and 3 is sufficient to establish that petitioner drove the offending vehicle in a rash and negligent manner, resulting in the accident.

5.4 This Court, exercising revisional jurisdiction, has very limited scope to reappreciate the evidence, particularly when the findings recorded by the Courts below are concurrent. Unless there is any jurisdictional error, perversity or palpable illegality in such findings, this Court cannot interfere with the findings of learned appellate court regarding appreciation of evidence.

5.5 In the present case, both Courts below have appreciated the evidence of P.Ws.2 and 3 and accepted their testimony being eye witnessesregarding the occurrence of the accident. At this juncture, this Court finds no material to disbelieve the concurrent findings recorded by Courts below. Though P.W.2 had not actually witnessed the accident, the evidence of P.Ws.2 and 3, when read conjointly, establishes the circumstances surrounding the occurrence of the accident and the rash and negligent driving of the offending vehicle by the petitioner.Therefore, this Court finds no justifiable ground to interfere with the judgment of conviction passed by learned trial court and confirmed by learned appellate court.

5.6 Coming to quantum of sentence, it is evident that incident occurred on 13.04.2002 and criminal proceedings have been pending for more than two decades. Petitioner has been facing criminal litigation for a considerable period.

5.7 In **Surendran v. Sub-Inspector of Police**[1], a three-judge Bench of the Hon'ble Supreme Court of India held that sending a convict to prison after a prolonged delay from the date of the incident is harsh and unjust. Accordingly, a lenient approach may be adopted in the matter of sentencing, as the accused has already suffered the ordeal of prolonged litigation. Following the principle laid down by Hon'ble Supreme Court, this Court has also adopted a liberal and lenient approach in several cases.

5.8 Considering prolonged pendency of criminal litigation and the fact that petitioner has been facing criminal proceedings for more than two decades, this Court is of the view that it is a fit case to take a lenient view in favour of petitioner. Accordingly, conviction recorded by learned trial court and confirmed by learned appellate court for the offence punishable under Section 304-A of I.P.C. is hereby sustained. However, substantive sentence of imprisonment imposed upon petitioner is modified to payment of an additional fine of Rs.10,000/- (Rupees ten thousand only), besides the fine of Rs.100/- already imposed by learned trial court.

5.9 Petitioner is directed to pay the additional fine amount of Rs.10,000/- (Rupees ten thousand only) before learned trial court within six weeks from date of this order. In default of such payment, substantive sentence of imprisonment imposed by learned trial court and

[1] 2021 Supreme(SC) 298

confirmed by learned appellate Court shall remain operative in accordance with law.

5.10 Petitioner shall file a memo before Registry of this Court, along with proof of payment of additional fine amount, within six weeks from date of this order.

6. Accordingly, criminal revision case is disposed of, confirming conviction of petitioner and modifying sentence to the extent indicated above.

7. Let a copy of this order be served upon learned trial court for ready reference.

8. Pending miscellaneous applications, if any, shall stand closed.

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JUSTICE SUBHENDU SAMANTA

Dt.16.11.2026
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