

S.B. Criminal Leave to Appeal No.20/2009
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Date : 30.4.2009

HON'BLE MR. PRAKASH TATIA, J.

Mr. SS Sharma, Public Prosecutor.

Heard learned public prosecutor and perused the record.

This petition for leave to appeal has been preferred by the appellant State being aggrieved by the appellate judgment dated 20.10.2008 passed by the Court of Additional Sessions Judge (Fast Track), Rajsamand in criminal appeal no.19/2008 whereby the appellate court set aside the judgment and order dated 9.1.2007 passed by the Court of Additional Chief Judicial Magistrate, Bheem in criminal case no.117/2003 convicting the respondent for offence under Sections 279, 337 and 304A IPC.

Learned public prosecutor submitted that the

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prosecution produced the eye witness complainant Smt. Lalita Devi who was traveling with her husband Mohan Lal in Maruti van and she clearly deposed that the accused was driving the video coach bus and caused the accident by his rash and negligent driving resulting into death of Mohan Lal and the complainant's son also suffered injuries. She clearly deposed that after the accident, the accused himself told his name to the complainant. It is submitted that said oral statement of Smt. Lalita was fully corroborated with the prosecution witnesses viz. PW2 Laxman Lal, PW3 Ratan Lal and PW4 Mangi Lal as well as from the documents placed on record, particularly, site inspection report.

I perused the reasons given by the appellate court. The appellate court found that there is no corroboration to the statements of the PW1 Smt. Lalita as well as her own statement cannot be relied though she was traveling in the maruti van which met with the accident. This happens because of the reason that in defence, photographs were produced by the accused side and statement of PW2 Laxman Lal who conducted the mechanical

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examination of the vehicles in question was not corroborating the statement of complainant PW1. Her statement rather support the defence story that the video coach was going on in right side and the accident occurred in the center of the road. Furthermore, the accident occurred in late midnight and there is every possibility that the accident might have occurred because of the negligence of the driver of maruti van.

From the reasons given in detail by the appellate court, I am of the view that the appellate court has examined the evidence in detail carefully and thereafter reached to the conclusion that the prosecution failed to prove the offence committed by the respondent.

In view of the above, I do not find any reason to grant the leave to appeal. Accordingly, this petition for leave to appeal is hereby dismissed. Consequently, the appeal is also dismissed.

(PRAKASH TATIA), J.
S.Phophaliya