

HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No. 1046 OF 2004

DATED 30th JUNE, 2010.

BETWEEN
Mohammed Habeeb Baig

.....Petitioner/Accused

and

The State of AP,
Rep. By its Public Prosecutor

...Respondent

HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No. 1046 OF 2004

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ORDER:
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This Criminal Revision Case under Sections 397 and 401 of the Cr.P.C. is filed aggrieved by the judgment dated 7.5.2004 passed in Criminal Appeal No. 5 of 2002 by the learned III Additional Sessions Judge, Warangal, confirming the conviction and sentence recorded against the petitioner/Accused for the offence punishable under Sections 304-A and 337 IPC in the order dated 3.1.2002 in C.C.No. 847 of 1999 by the learned I Additional Judicial Magistrate of First Class, Warangal.

Brief facts of the prosecution case are that when Kancherla Bharath Kumar @ John returning to

his house for lunch during the lunch recess at about 12.00 noon and when he reached Deshaipet road, the accused being driven his van bearing No.AEO 4539 in rash and negligent manner, at high speed, dashed the bullock-cart and thereafter the said Bharath Kumar @ John causing his instantaneous death. Based on the same, the police registered a case in Crime No. 163 of 1999 under Section 304-A IPC and investigated into. After filing the charge sheet, the trial Court took the cognisance of the case for the offence under Section 304-A IPC against the petitioner-accused..

The trial Court on a full-fledged trial and appreciation of the evidence on record found the accused guilty of the offence punishable under Sections 304-A and 337 IPC, and accordingly convicted and sentenced him to undergo S.I. for two years under the first count and three months under the second count.

On appeal being Criminal Appeal. No.5 of 2002 preferred by the petitioner/accused, the lower Appellate Court, on appreciation of the evidence on record, dismissed the appeal confirming the conviction and sentence recorded by the trial Court. Hence this revision.

It is needles to state that the powers of the High Court in exercising its jurisdiction under Sections 397 and 401 of Cr.P.C. are truncated and

unless the finding recorded by the Court below is shown to be perverse or incorrect or illegal or not based on any evidence on record, the judgment under challenge needs interference. In the present case, on a perusal of the evidence available on record and on hearing the learned Counsel appearing on either side, this Court finds no illegality or irregularity or perversity in the findings recorded by the Courts below so as to interfere with the same.

However, the learned Counsel for the petitioner confining his argument to the inflicting of the sentence against the petitioner/accused, submitted that the petitioner has suffered a stigma of conviction in the society; that after lapse of a decade from the date of the incident, if the petitioner is sent to judicial custody, the same may cause prejudice to him and that the petitioner has to look after his family members as he being the breadwinner. Hence, the learned Counsel submitted that the petitioner can be shown some lenience insofar as the sentence ordered by the Courts below is concerned.

As there is no serious objection from the side of the learned Public Prosecutor, this Court, considering the facts and circumstances of the case, evidence available on record, and submission of the learned Counsel for the petitioner, thought it fit to show some lenience on the petitioner. Considering

the same, the conviction recorded by the Courts below is confirmed, however, sentence of imprisonment recorded against the petitioner/accused is set aside and in its place, the petitioner is directed to pay a fine of Rs.10,000/- as compensation, within a period of four weeks from the date of copy of this order is made ready. On such payment, the trial Court is directed to disburse the said amount to the legal heir of the deceased.

Subject to the above modification in sentence, the Criminal Revision Case is disposed of.

JUSTICE RAJA ELANGO

DATED 30th JUNE, 2010.
Msnr.