

HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

Criminal Revision Case No.1344 of 2005

Judgment:

This revision arises out of the order dated 11-8-2005 of the V Additional District and Sessions Judge (Fast Track Court), Ongole, whereby he has confirmed the judgment of the II Additional Judicial Magistrate of First Class, Ongole, convicting the appellant for the offence punishable under Section 304-A, IPC and sentencing him to undergo rigorous imprisonment for a period of one year.

2. The appellant is the sole accused in C.C.No.277 of 1999 on the file of the II Additional Judicial Magistrate of First Class, Ongole.

3. The facts of the prosecution case may briefly be stated as follows:

(a) On 30-7-1999 at about 4.00 a.m., the deceased Shaik Khasim Vali and his brother P.W.1 were proceeding towards Municipal Market side and when they reached Municipal Market centre, the driver of the lorry bearing registration No.ATK 9859 has driven the vehicle in a rash and negligent manner and hit the deceased Khasim Vali from his behind and rear wheel of the lorry ran over him and Khasim Vali met with an instantaneous death in the said accident. P.W.1 lodged a report with the Police, which is Ex.P-1 and P.W.6 registered the same as a case in Crime No.113/1999 and investigated the case. After completion of

investigation, he has filed charge-sheet against the accused for the offence punishable under Section 304-A, IPC.

(b) During the course of trial, the prosecution has examined P.Ws.1 to 6 witnesses and got marked Exs.P-1 to P-11 documents to substantiate its case. At the culmination of the trial, the learned Magistrate found the accused guilty for the offence punishable under Section 304-A, IPC. Therefore, he has convicted him for the said offence and sentenced him to undergo rigorous imprisonment for a period of one year.

(c) Aggrieved thereby, the accused preferred an appeal to the Sessions Court and the learned V Additional District and Sessions Judge (Fast Track Court), Ongole, after hearing the appellant and the prosecution, confirmed the said sentence by the impugned judgment dated 11-8-2005 and dismissed the appeal.

(d) Feeling aggrieved by the impugned judgment of conviction of the appellate Court, the appellant has preferred the instant revision assailing the legality and validity of the impugned judgment of conviction of both the Courts below.

4. In this old case of the year 2005, despite granting several adjournments, the revision petitioner did not turn up for hearing. Finally on 08-8-2019 also, as there was no representation on behalf of the petitioner, the matter is posted to this day i.e. 22-8-2019 under the caption "Final Hearing" stating that if the petitioner fails to turn up for hearing on that day, the criminal revision case will be disposed of on merits after hearing the

learned Public Prosecutor on the basis of the material available on record.

5. When the matter came up for hearing today, there is no representation on behalf of the petitioner as usual. Therefore, heard the learned Public Prosecutor and perused the record.

6. In order to substantiate the case of the prosecution, the prosecution mainly relied on the evidence of P.W.1, who is the direct eyewitness to the accident and on Ex.P-9 Trip Sheet to prove that the accused was the driver of the said lorry at the time of the accident. P.W.1 is the brother of the deceased. He categorically deposed in his evidence that when he and his brother were proceeding towards Municipal Market side and when they reached the Municipal Market centre that the driver of the lorry bearing No.ATK 9859 has driven the said vehicle in a rash and negligent manner and dashed his brother Khasim Vali from his behind and thereafter the lorry ran over him and that his brother met with an instantaneous death in the said accident. Nothing was elicited in his cross-examination to discredit the said testimony given by P.W.1. Therefore, there is no valid reason to disbelieve his testimony. So the evidence of P.W.1 proves that the accident occurred due to the rash and negligent driving of the lorry by its driver and that he is responsible for the death of the deceased in the said accident.

7. Both the Courts have on proper appreciation of evidence held that the said evidence of P.W.1 proved that the driver of the lorry has driven the vehicle in a rash and negligent manner and

caused the said accident which resulted into the death of the deceased. On reappraisal of the said evidence, this Court also found that the accident occurred due to the rash and negligent driving of the lorry by its driver and that he is responsible for the death of the deceased in the said accident.

8. As regards the identity of the accused as a driver of the said vehicle is concerned, the record reveals that the accused himself has surrendered before the Police. The Investigating Officer has also seized the Trip Sheet of the lorry which is Ex.P-9, which shows that the accused was the driver of the said lorry at the time of the accident. Even the Motor Vehicle Inspector also in his report stated that the accused is the driver of the said lorry. Therefore, considering the fact that the accused himself has surrendered before the Police after the accident, both the Courts below held that as he is the driver of the vehicle at the time of the accident that he has surrendered before the Police. Apart from it, Ex.P-9 Trip Sheet and Ex.P-11 the Motor Vehicle Inspector's report also show that the accused was the driver of the said lorry. Taking into consideration all these factors, the trial Court and the appellate Court have recorded a clear finding that the accused was the driver of the said vehicle at the time of the accident.

9. Therefore, as the evidence of the Investigating Officer P.W.6 and Ex.P-9 Trip Sheet of the lorry proved that the accused was the driver of the said vehicle at the time of the accident and as the evidence of P.W.1 shows that the accused has driven the vehicle in a rash and negligent manner and caused the accident

and as it is found from the evidence on record that the accused is responsible for the death of the deceased in the said accident, both the Courts below i.e. the trial Court and the appellate Court rightly arrived at a conclusion that the accused is guilty of commission of offence punishable under Section 304-A, IPC. This Court does not find any legal flaw or error in the judgments of both the trial Court and the appellate Court.

10. Therefore, there are no valid grounds warranting interference of this Court with the impugned judgment of the learned Sessions Judge.

11. In the result, the revision is dismissed. Pending applications, if any, shall stand closed.

CHEEKATI MANAVENDRANATH ROY, J.

31st October, 2019.
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HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

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