

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE :
HUSNABAD**

Present: **Smt. Vejja Shiva Ranjani,**
Judicial First Class Magistrate,
Husnabad.

This the **06th day of December, 2023**

C.C. No.204 of 2018

Between:

State: The Sub-Inspector of Police,
Husnabad Police Station.

...Complainant.

A N D

Are Kanakaraju S/o Ramaiah, Aged: 36 years, R/o Pedda Samudrala of Koheda Mandal of Siddipet District.

...Accused

This case is coming on 06.12.2023 before me for final hearing in the presence of the Learned A.P.P. for the prosecution and of Sri O.Sadanandam, Counsel for the accused and after having perused the evidence adduced, exhibits marked and material papers available on record and having stood over for consideration till this day, this court delivered the following:-

J U D G M E N T

1. The Sub Inspector of Police, Husnabad Police Station filed charge sheet in Crime No.69/2018 against sole accused for the offence punishable under section 338 of Indian Penal Code,1860 (herein after referred as IPC).

2. The case of prosecution is as follows: -

(i) The PW1/Ravula Sridhar Reddy on 30-05-2018 at 17.00 hours went to Husnabad police station and filed complaint stating that, on 5-05-2018 his

maternal uncle namely Edaboina Madhushan Reddy/PW3 came to Husnabad on his Bajaj Discovery motor cycle bearing no. AP 15 AC 5870 on his personal work and after completion of his work he went to Hanuman filling station situated on Siddipet road after filling petrol in his bike he was returning to his village and was crossing the road in front of petrol bunk mean time the driver of a TSRTC bus bearing no. AP 23 X 0295 which was proceeding to Hanumakonda to Siddipet, drove the bus in rash and negligent manner with high speed and dashed PW3 due to which PW3 lost control over his driving and fell on the road by sustaining injuries on his left foot, waist, head, right leg little finger and the same was witnessed by Variyogula Prashant/PW2 and PW2 informed about the same to the brother in law of pw3/LW4/Edaboina Nikhil Reddy over the phone and thereafter he shifted PW3 to government hospital at Husnabad in 108 ambulance for his treatment. PW1 on knowing about the accident of PW3 rushed to the hospital and on the advise of the doctors he shifted PW3 to Aditya hospital at Karimnagar for his better treatment and as he was busy with the treatment of PW3 there is a delay in lodging the complaint. Therefore he requested to take necessary action.

(ii) Basing on the complaint the PW6/M.Mothiram, A.S.I. of Police, registered crime and issued F.I.R and took up the investigation. During the investigation he examined and recorded the statement of PW1 and visited the scene of offence secured the presence of LW6/Khaitha Narender Reddy and

PW4/Bhukya Laxman Singh and conducted crime detail form panchanama(herein after reffed as CDF) in their presence and incorporated the minute details in the CDF. Later PW6 examined PW3 and recorded his statement and also he examined and recorded the statements of PW2, LW4/Edaboina Nikhil Reddy and LW5/Edboina Aruna. Later LW10/D.Sudhakar, SI of police took up the further investigation and verified the investigation done by PW6 and found it on proper lines and he re-examined all the witnesses. Later on 02.06.2018 at 1200 hrs the accused surrendered before him in the police station and voluntarily confessed to have committed the offence. Then LW10 served notice on the accused under section 41(A) Code of Criminal Procedure(herein after referred as Cr.P.C). Further he verified all the documents of the crime bus and found them valid. Later he also collected the wound certificate of PW3 from PW5/Dr.M.Sharath in which he opined that the injuries sustained by PW3 are grievous in nature. After completion of entire investigation he filed charge sheet against the accused under section 338 of IPC.

3. The case was taken on file against accused for the offence U/Sec.338 IPC. On appearance of accused, copies of documents were furnished to him as contemplated U/Sec.207 of Code of Criminal Procedure, 1973 (hereinafter referred as Cr.P.C).

4. Accused was examined under section 251 Cr.P.C for the offence U/Sec.338 of IPC and the substance of accusation is read over and explained to the accused in Telugu to which he pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, the prosecution examined witnesses PW1 to PW6 and exhibited documents Ex.P1 to Ex.P4 marked as indicated in appendix of evidence. The Learnedd APPO has given up the evidence of LW5/Edaboina Aruna, LW6/Kaitha Narender Reddy and LW10/D.Sudhakar SI of police(2nd IO). The court has closed the evidence of LW4/Edaboina Nikhil Reddy as the police through the prosecution has filed the copy of death certificate of this witness.

6. After closure of the prosecution evidence, accused was examined under section 313 Cr.P.C. and he denied the incriminating oral and documentary evidences against him and reported no defence.

7. **Now the point for determination is:**

i. “Whether the prosecution established identity of the accused as the driver of the crime vehicle?”

ii. “Whether the prosecution established that the injuries sustained by the PW3 were caused due to rash or negligent act of accused?”

iii. “Whether prosecution established guilt of the accused for offence U/Sec 338 IPC beyond all reasonable doubts?”

8. Heard both sides.

9. Answer to Point no.1 to 3:

(i) Since the point No.1 to 3 are connected this court feels it appropriate to discuss and answer the points together.

(ii) To prove the offence, the prosecution has to bring on record that the accused was the driver of the crime vehicle at the time of accident and that the vehicle was driven in rash or negligent manner and that the injuries caused to PW3 is the direct result of such rash or negligent act on the part of the accused.

(iii) On perusal of the evidence on record, the PW1 is a circumstantial witness and as he has received the information of the accident of PW3 through PW2 and he has clearly stated that he was not present at the scene when the accident took place and PW2 has informed him about the accident, then he went to the scene of offence. Further in the chief he added that he gave the police complaint after 5 days from the date of incident and has stated the registration of crime vehicle as 0295. In cross examination on the point of negligence he admitted that he does not know whose negligence resulted in the accident of the PW3. This witness further stated that after the accident the PW3 was taken to government hospital at Husnabad and from there to Aditya hospital at Karimnagar for further better treatment.

(iv) The PW2 is shown as the eye witness and in his chief stated that in 2018, on one day after filling petrol in his bike he was proceeding to husnabad bus

stand and he saw that PW3 was also proceeding to Husnabad bus stand on a bike and a bus coming from siddipet road towards Husnabad in high speed dashed PW3 and the PW3 sustained injuries then PW2 called 108 ambulance and this witness has identified the accused and also stated the registration number of the vehicle as 0295. In cross examination he stated that he knows the PW3 since 2017 and he informed the wife of PW3 about the accident of PW3 on the phone and denied suggestions as to the absence.

(v) The PW3 in his chief stated that on 25.05.2018 the driver of RTC bus bearing no.0925 dashed his vehicle from back side while he was proceeding to bus stand from Hanuman filling station at husnabad after filling petrol in his bike so he fell down and sustained injuries on his both legs and neck and then PW2 shifted him to Govt hospital in Husnabad for his treatment and later he was shifted to Adithya hospital Karimnagar for his better treatment and he identified the accused. In cross examination he stated that the crime vehicle (RTC bus) hit him from back side after he took u turn at the divider and proceeding to husnabad and that he has seen on his left hand side before taking u turn at the divider and proceeding to husnabad and that the crime vehicle was at a distance of 50 meters while he was taking u turn at 10 km per hour speed and admitted that he had no opportunity to see the driver of crime vehicle when it hit him and he denied the suggestion that he has foisted a false case against

the accused though he is not concerned with the alleged accident and that this witness sustained injuries due to his own negligence by skidding from his bike.

(vi) The PW4 is the panch for CDF and the PW6 is the 1st IO and their evidence is not to prove the incident as they are not eyewitnesses. Further PW5 who is the doctor has supported the case of prosecution and further the evidence of the doctor proves about the injuries sustained by PW3 and does not talk anything about the accused or his negligent act

(vii) From the entire evidence , what can be ascertained is that the PW1 is not an eyewitness whereas the PW2 has stated about the accident and identified the accused it shows that he has supported the case of prosecution in the chief but many doubts crop up as to the identity of the accused and about the negligent act of the accused due to which PW3 met with an accident, as nothing was brought on record about the way of negligent act of the accused as he simply deposed that the crime vehicle was travelling at high speed dashed the vehicle of PW3 and PW3 sustained injuries and no basis for the identification of the accused is made. It is no doubt that the identification of accused made in the court for the first time is a good identification but that has to be logically flow from the circumstances that is pleaded in the evidence but nothing of that sort is done in the present case. Hence the identification of the accused to be the driver of crime vehicle at the time of accident by this witness is not completely

believable. Further the evidence of this witness does not clearly state the high speed and how that can be attributed to be negligent or rash act on the part of the accused is not proved .

(viii) Now from the evidence of the PW3 two things which were not denied by the counsel for the accused become final and they are accident of this injured witness/PW3 and secondly the crime vehicle with which the accident took place, but neither of these two points conclusively identify the accused nor show the rash or negligent act on the part of the accused as this witness stated in his cross that he did not see the driver of the crime vehicle as he had no opportunity and it is not the case of the prosecution that this witness has been watching the bus (crime vehicle) coming in the direction of hanumakonda for so long or that the accused stopped there after the accident giving an opportunity to the victim to identify the crime vehicle, hence the identification of the crime vehicle at the time of accident by this witness is not completely believable, moreso, in the given circumstance where he met with an accident, giving attention to the surroundings is rare though not completely impossible, but the prosecution has failed to explain any such circumstances, the only evidence that can be believable is the happening of the accident.

(ix) Further there is no documentary evidence collected by PW6 to show that the accused was driving the crime vehicle at the time of accident. More over,

PW2 in his evidence has stated the registration number of the crime vehicle 0295 but has not specified about the name of the accused and which crime registration number is differently stated by the injured/PW3 as 0925 which raises doubt in the mind of this court. Further the passengers of the crime vehicle and the local inhabitants of scene are not at all examined. The Investigation Officer / PW6 disclosed that the accused came to the police station and surrendered before him but he did not made any efforts to know about the driver of the crime vehicle and simply basing on the surrender of the accused he arrested the accused and more so, the Investigating Officer has failed to collect a trip sheet to show that the accused was driving the said crime vehicle on the alleged day of incident and in such circumstances where the accident of PW3 is not in dispute but where the identity of the accused is not made and where no iota of evidence is brought on record as to the rash or negligent act of the accused in causing the accident, and in the absence of proof of any of these, this court is not hesitant to hold that the prosecution has failed to prove its case beyond reasonable doubt and points No.1 to 3 are answered against the prosecution.

10. In the result, the accused is found **NOT GUILTY** for the offence U/Sec.338 of IPC and is acquitted U/Sec.255(1) Cr.P.C. The bail bonds of the accused shall stand discharged after the expiry of 6-months from the date of this

judgment as contemplated U/Sec.437-A Cr.P.C. No order as to property as nothing was deposited before this court.

(Typed to my laptop, corrected and pronounced by me in open Court, this the 06th day of December, 2023.)

**JUDL. MAGISTRATE OF F.C:
HUSNABAD**

**APPENDIX OF EVIDENCE
WITNESSES EXAMINED**

FOR PROSECUTION: -

FOR ACCUSED:-

PW1 - Ravula Sridhar Reddy
PW2 - V.Prashanth
PW3 - A. Madhusudan Reddy
PW4 - B Laxman
PW5 - Dr.M Sharath Babu
PW6 - M. Mothiram

None.

EXHIBITS MARKED

FOR PROSECUTION: -

Ex.P1: Report
Ex.P2: Crime Detail Form
Ex.P3: Medical Certificate
Ex.P4: FIR

FOR ACCUSED: - NIL

No. of Matrial Objects Marked

Nil

**PRL. JUDL. MAGISTRATE OF F.C
HUSNABAD**