

IN THE COURT OF THE PRINCIPAL JUNIOR CIVIL JUDGE –cum- JUDICIAL
MAGISTRATE OF I CLASS :: NUZVID ::

Present: *Sri Ch.L.Srinivasa Rao, B.A.L., B.L.,*
PRINCIPAL JUNIOR CIVIL JUDGE –cum-
JUDL. MAGISTRATE OF I CLASS, NUZVID

Monday, this the 17th day of July, 2023

CALENDAR CASE No.1155/2022

Between:

State Represented by the Sub-Inspector of Police,
Veeravalli Police Station.

...Complainant

And

Teki Yesu Babu, S/o late Satya Rao, age 40 yrs., Kapu, Santha
market center, Samarlakot, East Godavari District. AP16 BV
9969 Driver of Toyota Car

... Accused

This case coming on 17.7.2023 for final hearing before me in the presence of learned Asst., Public Prosecutor for the State and of Sri K.J.Dixon, Advocate for accused; and upon the matter having stood over for consideration till this day, this Court delivered the following:

// J U D G M E N T //

1. The State represented by its Sub-Inspector of Police, Veeravalli Police Station, laid a charge sheet against accused in Crime No.98/2022 for the offence punishable under Section 338 of Indian Penal Code (for short 'IPC') alleging that, the L.W.1/Pamarthi Srinivas Rao is the resident of Ramalingeswara Nagar. He was working as a cold storage Manager in Paritala, due to Sankranthi festival, he along with his wife and son Ravikiran and his grand daughter, went to Hanuman junction to his brother-in-law house on 13.1.2022. After completion of the festival on 16.1.2022 he along with his wife and granddaughter started to Vijayawada through bus and his son came on Yamaha motorbike, at about 8.00 p.m., when he reached near to the scene of offence, the driver of Toyota car drove his vehicle in rash and negligent manner and dashed against him, resulting which, the bleeding injuries caused on his head, on his back bone. His son was shifted to Govt. Hospital, Vijayawada in 108 Ambulance for treatment, there from he was shifted to Kamineni Hospital, Vijayawada for better treatment. On the statement of L.W.1/Pamarthi Srinivas Rao, LW8/A.S.I./Y.Anjaneyulu registered the same as F.I.R., investigated into the case. During the course of investigation, he visited Kamineni Hospital,

examined LWs 1 to 4 namely Pamarthi Srinivas Rao, Pamarthi Ravi Kiran, Pamarthi Nagalakshmi, Pamarthi Anusha and recorded statements. Later he handed over the case to LW9/S.I./M.Subrahmanyam for further investigation, he visited the scene of offence, drafted rough sketch, served Sec.41-A Cr.p.c., notice to the accused and verified the documents of the crime vehicle. After receiving the would certificate of LW1/P.Srinivasa Rao from LW7/Dr.Jonnalagadda Phani Shankar, he laid chargesheet against the accused.

2. Basing on the charge sheet allegations and on perusal of other material available on record, this Court took cognizance of the offence under Section 338 IPC against accused.

3. On appearance of accused before this Court, the relevant copies of documents were furnished to accused as contemplated U/s.207 Cr.P.C.,.

4. On appearance and consideration, Accused was examined under Section 239 Cr.P.C and framed charge u/s.240 Cr.P.C for the offence u/Sec 338 of IPC, which read over and explained to him in Telugu, for which, he pleaded not guilty and claimed to be tried.

5. To prove its case, the prosecution examined P.Ws.1 and 2, and got marked Exs.P.1 and P.2 on its behalf. None of the witnesses were examined and no documents were got marked on behalf of accused. The details of which are mentioned hereunder in Appendix of Evidence. LWs.3 to 9 (P.Nagalakshmi, P.Anusha, Ch.Srinivas Rao, R.Sithaaramaswamy, Dr.J.Phani Sankar, Y.Anjaneyulu and M.Subrahmanyam – Sub-inspector of Police) were given up by APP.

6. After closure of the prosecution evidence, the examination of Accused U/Sec.313 Cr.P.C is dispensed with, as there is no incriminating evidence in the evidence of the prosecution witnesses against the Accused.

7. Heard the learned Asst., Public Prosecutor and the learned counsel for accused. Perused the evidence of P.Ws 1 and 2, and Exs.P.1 and P.2.

8. Now the point for determination is –

“Whether the prosecution has established the guilt of accused beyond reasonable doubt for the charge punishable U/Sec.338 of IPC?”

9. **POINT:-**

PW1 who is the father of the injured i.e., PW2 deposed that as on 16.1.2022 at about 8.30 p.m., LW4/P.Anusha informed him that while PW2 was coming from Hanuman Junction to

Vijayawada in a scooty, when he reached to Veeravalli Police Station, in the same time, one car was coming from Vijayawada towards Eluru and dashed against the scooty of PW2, due to which, PW2 sustained bleeding injury on his head and he was shifted to Govt. Hospital, Eluru in 108 Ambulance for treatment, there from he was shifted to Kamineni Hospital, Vijayawada for better treatment and he rushed to Kamineni Hospital, Vijayawada, he saw the PW2 with injury on his head. Later, he gave Ex.P1 statement to the police. Infact PW1 never went to the scene of offence immediately after the accident. Further he stated that he does not know the registered bearing number of the crime vehicle and who drove the same at the time of accident. Further he categorically stated that he does not know personally about the manner of the accident and basing on the information given by LW4/P.Anusha, he gave Ex.P1 statement to the police. Further PW1 never stated that he came to know through LW4/P.Anusha that the accused drove the crime vehicle in a rash and negligent manner and he dashed the scooty of PW2 and caused injuries to him. Further PW1 has not identified the accused as a driver of the crime vehicle. Further he was not personally witnessed the accident to say that accused is the driver of the crime vehicle at the relevant time of accident. So his evidence is not helpful to prove that accused drove the crime vehicle in a rash and negligent manner at the relevant time of accident and dashed against the scooty of PW2 and caused head injury to him.

10. Further the PW2 who is the injured-cum- eye witness to the accident, turned hostile to the prosecution case by stating that on 16.1.2022 at about 8.00 p.m., when he was going to Vijayawada from Hanuman Junction, when he reached to Veeravalli, he did not remember what happened to him, but he came to know that he sustained injuries in the accident. Further the PW2 never stated the bearing registration Number of the crime vehicle and who drove the same at the relevant time of the accident. Further PW2 never stated that accused is the driver of the crime vehicle at the relevant time of accident and he drove the same in a rash and negligent manner and dashed the scooty of PW2, due to which, he sustained bleeding injury on his head. However during the cross-examination of the PW2 by the learned A.P.P., PW2 stated that he never stated before the police as in Ex.P2 of his Sec.161 Cr.p.c. statement and nothing was drawn in his cross-examination in favour of the prosecution. Further the evidence of PWs 1 and 2 is not at all helpful to the case of the prosecution to establish that the accused is the driver of the crime

vehicle at the relevant time of accident and he drove the same in rash and negligent manner caused the accident of PWs 1 and 2.

11. So in view of the above said circumstances, I am of the opinion that the prosecution miserably failed to bring home the guilt of accused for the offence punishable under sec.338 of IPC beyond reasonable doubt. Accordingly this Point is answered in favour of the accused against the prosecution.

12. ***IN THE RESULT, Accused is found not guilty for the charge punishable U/Sec.338 of IPC. Accordingly, he is acquitted u/s.255(1) of Cr.P.C. for the said charge. The bail bonds of Accused shall be in force for a period of six months as per Section 437-A of Cr.P.C. As per the charge sheet, no property was shown, hence no order as to the property.***

Dictated to the stenographer, corrected and pronounced by me in Open Court, this the 17th day of July, 2023.

Sd/- Sri Ch.L.Srinivasa Rao,
PRL. JUNIOR CIVIL JUDGE-CUM
JUDL. MAGISTRATE I CLASS, NUZVID

APPENDIX OF EVIDENCE
WITNESSES EXAMINED FOR

PROSECUTION:

PW.1: P.Srinivasa Rao
PW.2: P.Ravi Kiran

DEFENCE:

- None-

DOCUMENTS MARKED

PROSECUTION:

EX.P.1: Statement
EX.P.2: Section 161 Cr.P.C. Statement of PW2.

DEFENCE:

- Nil -

MATERIAL OBJECTS

- Nil -

Sd/- Sri Ch.L.Srinivasa Rao,
PJCJ-cum- JMFC.,
NUZVID.