

IN THE COURT OF THE JUNIOR CIVIL JUDGE-CUM-JUDICIAL MAGISTRATE OF
FIRST CLASS:: AT NARSAPUR:: DISTRICT MEDAK

PRESENT: Smt K.ANITHA
Junior Civil Judge-cum-
Judicial Magistrate of First Class,
At Narsapur, Medak District.

WEDNESDAY, 26th DAY OF APRIL, 2023.

C.C.No. 4991 of 2022

Between:

The State of Telangana, through,
Sub-Inspector of Police, P.S. Narsapur.

...Complainant

AND

Medipally Ashok, S/o. Ramulu ,
aged: 39 years, Caste: Chakali (Washer man),
Occ: Driver of DCM bearing No.AP15-Y-6480,
R/o. H.No.3-97, Annaram Village, Gummadidala
Mandal, Sangareddy District.

... Accused

This case is coming for final hearing before me in the presence of the Assistant Public Prosecutor and Sri. A. Sreenivas, the learned counsel for the accused, upon hearing and the matter having stood over for consideration till this day, the Court delivered the following judgment;

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

01. The sole accused is facing the trial for the offences u/Sec.304(A), 337 of INDIAN PENAL CODE.

02. The Sub - Inspector of Police, Police Station Narsapur has filed the charge sheet alleging as follows;

(i) On 15.09.2022 at 20:00 hrs, complainant/ LW1/ Smt. Erukala Laxmi came to PS and lodged a complaint, in which she stated that, on 15.09.2022 at about 16:40 hrs, set out to Peddachinthakunta Village on his TVS XL bearing No.AP 13 AD 7537 along with her villager Jakkula Veeresham and while going when they reached near to the gate of Peddachinthakunta meantime the DCM vehicle bearing No.AP 13 Y 6480 which was coming from Medak side, the driver drove the DCM in a rash and negligent manner and dashed against the TVS XL due to which her husband who was a pillion rider fled from the TVS XL and fell on the road upright side and sustained injury to

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back of his head as the helmet which he was wearing was broken and Jakkula Veeresham also wearing helmet and he sustained injury to his nose and also sustained dumb injuries to his body was informed to her by her villager Gurralla Mallesham over his phone, she and her family members have rushed there and saw that her husband and Jakkula Veeresham sustained bleeding injuries. Immediately, they have been shifted to Narsapur Hospital, after the first aid, the doctor advised to shift her husband to Gandhi Hospital for better treatment, while he was shifting in an ambulance when they reached near Mallanna temple in the outskirts of Narsapur her husband has been died. Jakkula Veeresham was shifted to Narayana Hospital, Suraram. Hence, she requested to take the action.

03. On 15.09.2022 at 20:00 hours, the LW1/ Smt. Erukala Laxmi has lodged the complaint. Basing on which, the LW10/ V. Ganga Raju, Sub-Inspector of Police, PS Narsapur, has registered the case in Crime No.210/2022 for the offences punishable U/sec. 304-A, 337 of INDIAN PENAL CODE and he issued the FIR and took up the investigation.

04. During the course of investigation, he examined and recorded the statement of LW1.

05. On 16.09.2022, the LW10/ V. Ganga Raju, Sub-Inspector of Police, PS Narsapur, visited to the scene of offence and conducted the scene of offence panchanama by securing in the presence of LW5/ E. Yadagiri and LW6/ G. Ashok and drawn the rough sketch of the scene.

06. The LW10/ V. Ganga Raju, Sub-Inspector of Police, PS Narsapur, has shifted the deceased Erukala Maisaiah to the Government Hospital, Narsapur and sent a requisition to the duty doctor to conduct autopsy over the body of the deceased. Mean while, the LW10 conducted the Inquest over the body of the deceased by securing in the presence of Lw5 and 6. Later, the LW10

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examined the Lw2/ Kum. Y. Maheshwari and the Lw4/ G. Mallesham and recorded their statements.

07. The LW8/ Dr. Saikiran CAS, Government Area Hospital, Narsapur, has conducted autopsy over the body of the deceased. After the autopsy the body of the deceased has been handed over to his blood relatives with acknowledgment to perform the final rites of the deceased according to their customs prevailed in their community. The LW10 has been to Narayana Hospital, Suraram, Hyderabad when he has been admitted for treatment and examined LW3/ Jakkula Veeresham who was riding the TVS XL which met with the accident and recorded his statement.

08. On 20.09.2022, the LW10/ V. Ganga Raju, Sub-Inspector of Police, PS Narsapur, has executed notice u/Sec. 41-A Cr.P.C., and served the same to the accused with instructions to appear before the investigation officer and before the Hon'ble Court whenever summoned subsequently accused submitted the crime vehicle documents i.e., RC, insurance and driving license.

09. The LW7/ Dr. Vamshidhar Nag, Causality Medical Officer, Mallareddy Hospital, Suraram, Hyderabad, who treated LW3/ Jakkula Veeresham has opined that the LW3 sustained **"Simple injuries"**.

10. The LW10/ V. Ganga Raju, Sub-Inspector of Police, PS Narsapur, has sent a requisition to motor vehicle Inspector, Medak with a request to inspect the crime vehicle. On 26.09.2022 LW9/ Richard A Myers, Motor Vehicle Inspector, Medak has come to Narsapur PS and inspected the crime vehicle i.e., DCM bearing No.AP 15 Y 6480 opined that the **"accident did not occur due to any Mechanical defects of the vehicle"**.

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11. After completion of the investigation, the LW10/ V. Ganga Raju, Sub-Inspector of Police, PS Narsapur, has filed the charge sheet for the offences punishable u/Sec.304(A), 337 of INDIAN PENAL CODE, against the accused.

12. This court took cognizance of the offences punishable u/Sec.304(A), 337 of INDIAN PENAL CODE, against the accused, on 28.11.2022.

13. On appearance of the accused copies of the documents as contemplated u/s. 207 of Cr.P.C., are furnished to him.

14. On 02.02.2023, the accused was examined u/Sec. 251 Cr.P.C., for the offences punishable u/Sec.304(A), 337 of INDIAN PENAL CODE, against the accused and the substance of accusation is explained to him in vernacular language. Having understood the same, he pleaded not guilty and he claimed to be trial.

15. The prosecution has examined Pws.1 to 6 and got marked Exs.P1 to P9. The evidence of Lws.6 was given up by the learned APP and the police failed to serve the summons to the Lws.7 to 9, nor filed any report, in spite of giving several adjournments. As such, their evidences are closed by this Court.

16. After the prosecution evidence was completed the accused was examined u/Sec. 313 Cr.P.C on 17.04.2022 and the incriminating circumstances appearing in the evidence of prosecution is explained personally to him. Having understood the same he denied the evidence and pleaded not guilty and he further reported that there is no defence evidence and he do not wish to be examined as defence witnesses. Hence, the defence evidence is closed.

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17. Heard the Assistant Public Prosecutor and learned counsel for the accused.

18. The point for determination:-

“Whether the prosecution has established the guilt of the accused for the offences punishable u/Sec.304(A), 337 of INDIAN PENAL CODE, beyond reasonable doubt?”.

19. To prove the guilt of the accused, the prosecution has to establish that, on 15.09.2022 at 20:00 hrs, when the husband of PW1 namely Masaiah (deceased) along with Jakkula Veeresham/PW3 while going on TVS XL bearing No.AP 13 AD 7537 and when they reached near to the gate of Peddachinthakunta meantime the DCM vehicle bearing No.AP 13 Y 6480 which was coming from Medak side, the driver i.e., the accused drove the DCM in a rash and negligent manner and dashed against the TVS XL due to which, the husband of PW1 who was a pillion rider flied from the TVS XL and fell on the road upright side and sustained injury to back of his head as the helmet which he was wearing was broken and Jakkula Veeresham also wearing helmet and he sustained injury to his nose and also sustained dumb injuries to his body and the husband of the PW1 died who sustained injuries in the said accident. To substantiate the prosecution case against accused persons it has examined the Pws.1 to 6 and got marked Exs.P1 to P9.

20. (i) The P.W.1/ E. Laxmi, the defacto complainant and wife of the deceased deposed that, at about six months back, on one day when her husband went out side of the house on the bike and she came to know through his villagers that her husband met with an accident and he was shifted to Government Hospital, Narsapur. Then, she immediately rushed to the Government Hospital, Narsapur and at the advice of the Doctors he was

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shifted to the Gandhi Hospital, Secunderabad for better treatment and while on the way to Hyderabad and they when reached near Mallanna Temple in an ambulance and her husband was died as such, they have shifted to Narayana Hospital, Suraram. Where he was declared as dead. Then, she went to the police station and lodged the complaint. Ex.P1 is complaint dated:15.09.2022 lodged by her was got marked in her evidence. She further deposed that, she do not know how the accident took place.

(ii) The cross examination by the Learned Advocate for the accused was reported Nil.

21. (i) The Pw2/ Maheshwari, who is the daughter of the PW1 and the deceased deposed that, at about six months back, on one day when her father went out side of the house on the bike and she came to know through his villagers that her father met with an accident and he was shifted to Government Hospital, Narsapur. Then, she immediately rushed to the Government Hospital, Narsapur and at the advice of Doctors he was shifted to the Gandhi Hospital, Secunderabad for better treatment and while on the way to Hyderabad and they when reached near Mallanna Temple in an ambulance and her father was died as such, they have shifted to Narayana Hospital, Suraram. Where he was declared as dead.

(ii) The cross examination by the counsel for the accused was reported Nil.

22. (i) The PW3/ J. Veeresham, eye witness and injured deposed that, at about six months back on one day when he along with the deceased went outside of the house on the bike and they met with an accident and he along with the deceased sustained injuries and he became unconscious after one month of the alleged incident he came to know that Maisaiah was succumbed to injuries.

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(ii) The cross examination by the counsel for the accused was reported Nil.

23. (i) The PW4/ G. Mallesham, deposed that, at about seven months back on one day he received the telephonic call with regard to an accident of Maisaiah. Then, he immediately rushed to the scene of offence and said Maisaiah was shifted to the Government Hospital, Narsapur and at the advise of the said Doctors he was being shifted to the Gandhi Hospital, Hyderabad and while he was been taken to the Hyderabad he succumbed to injuries. He further deposed that he did not witnessed the alleged accident.

(ii) The cross examination by the counsel for the accused was reported Nil.

24. (i) The PW5/ E. Yadagiri, deposed that, at about seven months back on one day the police conducted the Inquest panchanama of the deceased at Government Hospital, Narsapur and also on the next day the police conducted the scene of offence panchanama in his presence and also in the presence of Lw6 and they both attested the same. Ex.P2 is the scene of offence panchanama dated:16.09.2022, and Ex.P3 is the Inquest panchanama dated:16.09.2022.

(ii) During his cross examination, he denied that, the police did not conducted Ex.P2 and Ex.P3 in his presence and also in the presence of LW6 and they both did not attested the same.

25. PW6/ V. Gangaraju, who is an Investigation Officer, deposed that, on 15-09-2022 at about 20:00 hours, the PW1 came to the their police station and lodged the Ex.P1 complaint, basing on which he registered case in Crime No.210/2022 for the offences under section 304-A of IPC and he

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issued the FIR. During the course of his investigation he examined and recorded the statement of PW1 in the police station and on 16.09.2022 he visited to the scene of offence by securing the presence of Pw.5 and LW6 and conducted the scene of offence panchanama and drawn the rough sketch in their presence. Further during the course of his investigation he visited to the Government Hospital, Narsapur and conducted the inquest panchanama over the dead body of the deceased in the presence of PW5 & LW6 and he examined and recorded the statement of PW2 & 3. The LW8 has conducted the autopsy over the dead body of the deceased upon his requisition and handed over the dead body to his relatives. On 20.09.2022 he enlarged the accused on bail on compliance of the notice U/sec 41-A Cr.P.C. Further he has sent the requisition to LW9 on 26.09.2022 and he inspected the crime vehicle and issued the report to that effect. After completion of the investigation he has filed the charge sheet against the accused person for the offence U/sec.304-A of IPC. **Ex.P4** is the FIR issued by him. **Ex.P5** is the scene of offence panchanama Dated 16.09.2022. **Ex.P6** is the inquest panchanama Dated 16.09.2022. **Ex.P7** is the postmortem report issued by the LW5 Dated: 16.09.2022. **Ex.P8** is the MVI report issued by the LW9. **Ex.P9** is the Medical Certificate of PW3 issued by the LW7 dated:15.09.2022.

(ii) During his cross examination he denied that, the accused person is no way concerned with the alleged offence and that he filed charge sheet against the accused for statistical purpose by making the table investigation.

26. The evidence of Lws.6 was given up by the learned APP and the police failed to serve the summons to the Lws.7 to 9, nor filed any report, in spite of giving several adjournments. As such, their evidences are closed by this court.

27. Heard on both sides and perused the record.

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28. On the appreciation of both oral and documentary evidence after hearing on both the sides and after careful scrutiny of the entire material available on record, it is pertinent to mention that the evidences of Pws.1 to 6, it is insufficient to establish the fact that, on 15.09.2022 at 20:00 hrs, when the husband of PW1 namely Masaiah (deceased) along with Jakkula Veeresham/PW3 while going on TVS XL bearing No.AP 13 AD 7537 and when they reached near to the gate of Peddachinthakunta meantime the DCM vehicle bearing No.AP 13 Y 6480 which was coming from Medak side, the driver i.e., the accused drove the DCM in a rash and negligent manner and dashed against the TVS XL due to which, the husband of PW1 who was a pillion rider fled from the TVS XL and fell on the road upright side and sustained injury to back of his head as the helmet which he was wearing was broken and Jakkula Veeresham also wearing helmet and he sustained injury to his nose and also sustained dumb injuries to his body and the husband of the PW1 died who sustained injuries in the said accident. Basing on the evidences Pws.1 to 5 failed to depose against the accused as none of them were witnessed the alleged accident. Moreover, the police failed to serve the summons to the Lws.7 to 9, nor filed any report, in spite of giving several adjournments, as such, their evidences are closed by this court.

(ii) Therefore, non supporting by any of the prosecution witnesses leads to the fatal to the prosecution case. As such, the benefit of doubt goes to the accused person.

(iii) In these circumstances this court is of view that, the prosecution has failed to establish the guilt of the accused for the offences punishable u/Sec. 304(A), 337 of INDIAN PENAL CODE, beyond reasonable doubt. Accordingly, the point is answered.

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29. In the result, the accused is found not guilty for the offences u/Sec. 304(A), 337 of INDIAN PENAL CODE. Accordingly, he is **ACQUITTED** u/Sec. 255 (1) Cr.P.C. The bail bonds of the accused if any shall stands cancelled subject to Sec. 437 (A) Cr.P.C.

Typed to my dictation by the Stenographer, corrected and pronounced by me in the open court on this the 26th day of April, 2023.

Junior Civil Judge-cum
Judicial Magistrate of First Class,
Narsapur.

APPENDIX OF EVIDENCE
WITNESS EXAMINED

For Prosecution:

Pw-1: E.Laxmi
Pw-2: Y. Maheshwari
Pw-3: J. Veeresham
Pw-4: G. Mallesham
Pw-5: E. Yadagiri
Pw-6: V. Gangaraju (Sub-Inspector of Police)

For Defence:

-Nil-

EXHIBITS MARKED.

For Prosecution:

Ex.P-1/ Pw.1: is the complaint dated:15.09.2022 lodged by her,
Ex.P-2 and P-3/ Pw5: are the scene of offence panchanama dated:16.09.22
and Inquest panchanama dated:16.09.2022,
Ex.P-4/ Pw6: is the FIR issued by him,
Ex.P-5/ Pw6: is the scene of offence panchanama dated:16.09.2022,
Ex.P-6/ Pw6: is the Inquest panchanama dated: 16.09.2022,
Ex.P-7/ Pw6: is the Postmortem report issued by the LW5 dated:16.09.2022,
Ex.P-8/ Pw6: is the MVI Report issued by the LW9,
Ex.P-9/ Pw6: is the Medical Certificate of PW3 issued by the LW7
dated:15.09.2022.

For Defence:

-Nil-

Material objects marked

-Nil-

Junior Civil Judge-cum
Judicial Magistrate of First Class,
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