

IN THE COURT OF THE JUDICIAL MAGISTRATE OF I CLASS, AMADALAVALASA.**CALENDAR AND JUDGMENT in S.T.C. NO.340/2022**

Date of offence	17-10-2022
Date of Complaint or report:	17-10-2022
Date of apprehension of accused:	17-10-2022
Date of release on bail:	Accused released on his personal bond on 17-10-2022
Date of appearance of accused:	03-04-2023
Date of commencement of trial:	13-07-2023
Date of close of trial:	31-08-2023
Date of sentence of order:	11-09-2023
Explanation for delay:	No delay
Name of the complainant:	The Sub Inspector of Police, Amadalavalasa PS in Consecutive No.108/2022.
Name of the accused:	Neelapu Prasanth Kumar, S/o Dalayya, aged 27 years, Kasipuram Village, Kothuru Mandal.
Offence:	Under section 185 of Motor Vehicle Act.
Finding:	Accused found not guilty.
Sentence of Order	In the result, the Accused found not guilty for the offence punishable Under Section 185 of M.V.Act. Accordingly he is acquitted under Section 255 (1) Cr.P.C. for the above offence. The bail bonds of Accused if any shall stands to be cancelled after expiry of appeal time.

Sd/- S.Mani

**JUDL. MAGISTRATE OF 1ST CLASS,
AMADALAVALASA**Copy Submitted to the Hon'ble 1st Additional District & Sessions Judge, Srikakulam.

IN THE COURT OF THE JUDICIAL MAGISTRATE OF 1st CLASS, AMADALAVALASA**Present:- Smt. S. Mani,**Judicial Magistrate of 1st Class, Amadalavalasa.**Monday, this the 11th day of September, 2023.****S.T.C. No.340 of 2022****Between:**

The State of Andha Pradesh represented by the Sub Inspector of Police, Amadalavalasa Police Station in Consecutive No.108/2022.

... Complainant**And :**

Neelapu Prasanth Kumar, S/o Dalayya, aged 27 years, Kasipuram Village, Kothuru Mandal.

Accused

This case is coming on 31-08-2023 for final hearing before me in the presence of Assistant Public Prosecutor for State; and of Sri T.Annam Naidu, Advocate for Accused; and the matter having stood over for consideration, this court delivered the following :

J U D G M E N T

1. The Sub Inspector of Police, Amadalavalasa Police Station filed charge sheet in consecutive No.106/2022 against Accused for the offence punishable under sections 185 of Motor Vehicle Act.

2. The brief facts of the case of prosecution are that on 17-10-2022 at 6-41 PM, while LWs 1 and 2 (P.Raghunadharao and S.Anantharao) were conducting breath analysis test at St. Anns School area, they found the accused in a drunken condition, while driving his vehicle bearing No.AP 30 TC 0495 which is an offence under section 185 of Motor Vehicle Act. Hence, the charge.

3. This case was taken on file against the accused for the offence punishable under section 185 of Motor Vehicle Act and issued summons to him. On his appearance, case copies furnished to him as per section 207 Cr.P.C and he was examined under section 251 Cr.P.C for the offence under section 185 of Motor Vehicle Act and explained the

substance of accusation against him, having understood the same he denied and claimed for trial.

4. To prove the case, the prosecution cited 2 witnesses and examined LW-1/P.Raghunadharao as PW-1 and no documents marked. LW-2/S.Anantharao, PC No.589 was given up by prosecution.

5. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C and the incriminating material evidence against him was read over and explained to him in Telugu, having understood the same, he denied the offence and reported no defence evidence.

6. Heard both sides and perused the record.

7. Now the point for consideration is :

Whether the prosecution brought home the guilt of the accused for the offence under section 185 of Motor Vehicle Act beyond all reasonable doubt ?

8. In order to establish the guilt of the accused for the offence under section 185 of Motor Vehicle Act, the prosecution shall prove that accused was found in drunken state while he was driving his motor cycle. The prosecution is required to prove that the quantity of alcohol in the blood of the alcohol was beyond the limit as prescribed in Sec.185 of Motor Vehicle Act or that accused was under influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle. For which the prosecution examined LW-1 as PW.1 and PW.1 deposed that on 17-10-2022 at about 6-30 PM while he was conducting vehicle checking at St. Anns School junction, he found accused was driving his motorcycle in a drunken state, then he conducted breath analysis test and prepared the occurrence report and obtained the signatures of accused on it and after completion of investigation, he filed charge sheet. In his cross examination, PW.1 deposed that they are of three members went for vehicle checking, the scene of offence in busy locality with vehicles. He did not photograph the scene of offence and did not refer the accused for medical examination to know whether he consumed alcohol or not. PW-1 admitted that he did not request the village officials to act as mediators in this case.

9. As per evidence of PW-1, he prepared occurrence report at the scene of offence, but the said occurrence report was not filed before the court. The prosecution did not file any document of breath analyses test. Because for the offence under section 185 of Motor Vehicle Act, the prosecution shall prove that quantity of alcohol in the blood of accused was beyond the limit as prescribed in section 185 of Motor Vehicle Act. Admittedly as per evidence of PW-1, accused was not referred to doctor for medical examination as to whether accused consumed any alcohol or not. Therefore, when there is no document of breath analysis test or when there is no evidence on record about the quantity of alcohol in the blood of accused as alleged and there is no document on record that accused was under influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle. Then accused is entitled for benefit of doubt.

10. Admittedly PW.1 is the police official and there are no independent mediators in this case for the occurrence report. As per evidence of PW.1, the scene of offence is road in the village. Therefore there is every possibility to secure independent mediators from the said people or the village, but PW-1 did not secure any of them as mediators and also not stated the reason for non securing the independent mediators. Non securing of the independent mediators to the Ex.P1 occurrence report is fatal to the case of prosecution. LW-2 who is alleged to be present along with PW-1 at the scene of offence was not examined by the prosecution. There is no corroboration for the evidence of PW-1. Thereby PW-1 failed to comply the mandatory provision under section 100 (4) of Cr.P.C which mandates that an officer before making a search shall call upon two or more independent mediators of the locality in which place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do. In view of the above, the prosecution failed to prove the guilt of the accused for the offence under section 185 of Motor Vehicle Act beyond all reasonable doubt. Therefore the accused is entitled for acquittal.

11. In the result, the Accused found not guilty for the offence punishable Under Section 185 of M.V.Act. Accordingly he is acquitted under Section 255 (1) Cr.P.C. for the above offence. The bail bonds of Accused if any shall stands to be cancelled after expiry of appeal time.

Typed by the typist on my dictation and pronounced by me in open court on this the 11th day of September, 2023.

Sd/- S.Mani
JUDL. MAGISTRATE OF 1ST CLASS
AMADALAVALASA

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

For Prosecution:

P.W.1 P.Raghunadharao, S.I of Police.

For Defence:

None

Documents marked

-Nil-

Material objects:

-Nil-

Sd/- S.Mani
JUDL. MAGISTRATE OF 1ST CLASS
AMADALAVALASA