

APHC010265252008



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3560]

TUESDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1102 OF 2008

Between:

1. APPALABHATULA PRASADA RAO,, S/O. LATE BHAIRAGI, R/O.
YENDAPILLIVALASA, ARAKUVALLEY MANDAL, VISAKHAPATNAM
DISTRICT.

...PETITIONER

AND

1. STATE OF ANDHRA PRADESH, Rep., by Public Prosecutor, High
Court of A.P.

...RESPONDENT

Counsel for the Petitioner:

1. K JYOTHI PRASAD

Counsel for the Respondent:

1. PUBLIC PROSECUTOR

The Court made the following Order:

Being aggrieved by and dissatisfied with the concurrent findings of learned Courts below against the present Petitioner, whereby they found that the Petitioner be guilty for the offence punishable under Sections 304-A and 337 of IPC and convicted him to suffer simple imprisonment for six (06)

months and also imposed fine of Rs. 1,000/-, the instant Criminal Revision has been preferred.

2. Learned counsel for the Petitioner submits that the order of conviction recorded by the learned Courts below is illegal and improper. He further argued that there are no materials to record the conviction. The Prosecution has miserably failed to prove the charge against the Petitioner and there is miscarriage of justice. Learned Appellate Court has also not carefully gone through the evidences and thereby the order of sentence and conviction against the present Petitioner was illegally confirmed. He prayed to set aside the impugned Judgment.

3. Learned Assistant Public Prosecutor raised strong objections and submits that the Order of conviction recorded by the learned Trial Court is well founded and is on the basis of evidences on record and thereby charge against the present Petitioner has been sufficiently proved. He further argued that during trial, learned Trial Court has observed the findings of the witnesses lead by the prosecution by the presence of the witnesses, the guilt of the present Petitioner has sufficiently proved. He further argued that there are direct witnesses in the instant case, who has specifically deposed that the present Petitioner, being a driver of a Jeep has driven in a rash and negligent manner and caused the accident, thereby the Jeep overturned, resulting death of a person and injuries of other passengers.

4. Heard learned counsel appearing on behalf of the parties.

5. It is specifically argued by learned counsel for the Petitioner that the alleged place of occurrence is a hill area and there are narrow turns and loops in the said road, reasons thereby, the crime vehicle may be turned turtle at any time. He further argued that the witnesses lead by the prosecution is not sufficient to prove the guilt. The alleged rash and negligent driving of the Petitioner cannot be said by the version of the prosecution witnesses. There are no materials as to show what the actual speed of the vehicle was at the time of accident.

6. He further argued that Hon'ble Apex Court in several occasions has decided the issue only running a vehicle in a speed cannot *ipso facto* prove that it is running in a rash and negligent manner. In support of his convention, he cited decision of Hon'ble Apex Court in ***"State of Karnataka v. Satish"***¹ relevant portion is set out hereunder for ready reference:

4. Merely because the truck was being driven at a "high speed" does not bespeak of either "negligence" or "rashness" by itself. None of the witnesses examined by the prosecution could give any indication, even approximately, as to what they meant by 'high speed'. "High Speed" is a relative term. It was for the prosecution to bring on record material to establish as to what it meant by "high speed" in the facts and circumstances of the case. In a establishment of the charge against an accused always rests on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject of course to some statutory exceptions. There is no such statutory exception pleaded in the present case. In the absence of any material on the record, no presumption of 'rashness' or 'negligence' could be drawn by invoking the maxim 'res ipsa loquitur'. There is evidence to show that immediately before the truck turned turtle, there was a big jerk. It is not

¹ (1998) 8 SCC 493

explained as to whether the jerk was because of the uneven road or mechanical failure. The Motor Vehicle Inspector who inspected the vehicle had submitted his report. That report is not forthcoming from the record and the Inspector was not examined for reasons best known to the prosecution. This is a serious infirmity and lacuna in the prosecution case.

5. There being no evidence on record to establish “negligence” or “rashness” in driving the truck on the part of the respondent, it cannot be said that the view taken by the High Court in acquitting the respondent is a perverse view. To us it appears that the view of the High Court, in the facts and circumstances of this case, is a reasonably possible view. We, therefore, do not find any reason to interfere with the order of acquittal. The appeal fails and is dismissed. The respondent is on bail. His bail bonds shall stand discharged.”

7. Learned counsel for the Petitioner also cited another decision of learned Single Judge of Madras High Court in “**Renugopal v. State rep., by Inspector of Police, Vishnu Kanchi Police Station, Kancheepuram**”², relevant portion is set out hereunder for ready reference:

“24. In the decided cases when the witnesses stated that the driver had driven the vehicle at high speed, the Courts held that that will not be a rash and negligent act. Further the ipse dixit of the eye-witnesses in this case is that the accused came driven the van fast. There is no material as to what was the speed, what was the details of the speed there is no material to decide whether the accused has driven the van in a rash and negligent manner”.

8. Having perused the observation and direction of Hon’ble Apex Court in **Satish** (supra), the law laid down by the Hon’ble Apex Court is- merely running vehicle in a high speed does not *ipso facto* proves negligence or rashness by itself. In **Satish** (supra) the Hon’ble Apex Court also observed

² 2016 SCC OnLine Mad 30704

that none of the witnesses has stated about the speed of the vehicle at the time of accident. Moreover, there is no Motor Vehicles Inspector's Report regarding mechanical failure of the vehicle in question. In following **Satish** (supra), learned Single Judge of Madras High Court has held that running a vehicle at high speed does not itself proves rash and negligent act. The evidences of eye witnesses for not speaking about the particular speed of the vehicle are material defect to the prosecution case.

9. It is the case of prosecution case that when Petitioner was driven crime Jeep at about 11.00 a.m on that particular day at the time of passing near a bridge, the Petitioner want to overtake another jeep, thereby crime jeep turned turtle.

10. It is the prosecution case that the driving of the Petitioner was rash and negligent at the time of accident. To prove the prosecution case, 12 witnesses were examined and there are different documents, which are marked as Ex.P1 to P25.

11. In the particular case, the passengers are deposed as PWs 2, 3, 5 and 6, who specifically stated that at the time of accident, the Petitioner tried to overtake the vehicle, thereby he lost control. Motor Vehicles Inspector i.e PW-7, deposed that the accident was happened not due to any mechanical defect.

12. Under the aforesaid facts and circumstances of the case, the instant case is not similar to that of the law laid down by the Hon'ble Apex Court in

Satish (supra). In this case, there is no evidence regarding vehicle running in a high speed manner, the Petitioner alleged to be so careless and negligent he tried to overtake another vehicle without bothering about risk of such action.

13. I have perused the Judgment and the order of conviction passed by the learned Trial Court as well as order of learned Appellate Court. Learned Trial Court has categorically observed the material witnesses and scanned the evidences on their perspectives. One defence was tried to convince learned Trial Court as well as before learned Appellate Court, with a argument that the Petitioner was not a driver of the vehicle, but that plea appears to be vague and indefinite and through positive witnesses of PWs 2 and 3 cannot be ruled out. On this occasion, I find no justification to interfere with the order passed by learned Trial Court and learned Appellate Court. However, the fact suggests that the instant matter is pending since 2005. Now we have already crossed 20 years. The Petitioner must have suffered huge agony of long pending criminal litigation.

14. Considering the entire situation, the order of conviction against the present Petitioner is hereby modified to the fine only. Accordingly, the instant Criminal Revision case is disposed of with a direction to modify the order of sentence and conviction of the Petitioner simple imprisonment for six (06) months to a fine of Rs. 5,000/- along with fine already imposed (Rs. 1,000/-). The Petitioner is directed to pay fine amount before learned Trial Court within

three (03) weeks from the date of passing of this order, failing which the order of modification shall be vacated automatically.

15. With the above observation, the instant Criminal Revision Case is disposed of.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

SUBHENDU SAMANTA, J

Date: 02.12.2025

Note: Issue C.C by 05.12.2025

B/o

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