

APHC010796982014



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

[3560]

FRIDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 379/2014

Between:

1. CH. HANUMANTHARAO, S/O. KRISHNA RAO, R/O. KOLAKALURU
VILLAGE, TENALI MANDAL, GUNTUR DISTRICT

...PETITIONER

AND

1. THE STATE OF A P, Rep., by its Public Prosecutor, high court of A.P., at
Hyderabad. Kollipara P.S. Guntur

...RESPONDENT

Revision filed under Section 397/401 of Cr.P.C., praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to allow this Criminal Revision petition by set aside the judgments of the courts below in convicting the petitioner and consequently acquit the petitioner of the charge of Sec.304 of I.P.C

IA NO: 1 OF 2014(CRLRCMP 594 OF 2014)

Petition under Section 151 C.P.C., praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to dispense with for filing of the certified copy of the Judgment dt.19.02.2014 in Crl.aNo.179 of 2013 on the file of the District and Sessions Judge Guntur.

IA NO: 2 OF 2014(CRLRCMP 629 OF 2014)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to release the petitioner on bail by suspending the judgments dated 19.02.2014 in Crl.A.No.179 of 2013 on the file of the court of the District and Sessions Judge, Guntur and confirming the judgment in C.C.No.443 of 2010 on the file of the Court of the II Additional Judicial First Class Magistrate, Tenali dated 23.04.2013.

Counsel for the Petitioner:

1.THOTA RAMAKOTESWARA RAO

Counsel for the Respondent:

1.PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**CRIMINAL REVISION CASE NO: 379/2014****ORDER:**

1. Present petitioner was arrayed as an Accused in Calendar Case (for short C.C) No.443 of 2010 for a charge punishable under Section 304A of the Indian Penal Code (for short IPC). The learned Trial Court i.e., II Additional Judicial Magistrate of I Class, Tenali, after taking evidences has convicted the Petitioner for the offence punishable under section 304A of I.P.C., and imposed sentence to suffer Rigorous Imprisonment for a period of six (6) months and also to pay a fine of Rs.2,000/- (Rupees two thousand only). Such order of conviction was assailed before the learned Appellate Court i.e., Sessions Judge, Guntur, in CrI.A.No.179 of 2013 who has confirmed the Order of conviction. Hence, the instant CrI.R.C.

2. Learned Counsel for the Petitioner at the outset, submits that the evidences placed by the prosecution before the learned Trial Court are set up evidences, only to get money for compensation from the Insurance Company. He further submits that the prosecution in their case has stated that there are several eyewitnesses, but only P.W.3 deposed to support the prosecution case. He submits that P.W.3 has stated before the Trial Court that the deceased along with other two persons, including P.W.3 were proceeding to the field. At 5.00 P.M evening, proceeding of the deceased along with P.W.3 to the field is doubtful. He further submits that there are no evidences that the accused drove

the lorry in a rash and negligent manner, it was a very busy road, where a lorry cannot run in a speedy manner. Thus, the entire prosecution case, if properly scanned, it would be revealed that there is no negligence on the part of the Petitioner. He further submits that the learned Trial Court as well as the learned Appellate Court has not properly considered the evidences and convicted the Petitioner for the alleged offence. He further submits that the Petitioner is aged person, the offence of accident was happened in the year 2010, so, he prayed for leniency.

3. Learned Additional Public Prosecutor submits that to prove the prosecution case, the prosecution has placed eyewitnesses, the Doctors, Trip-sheet and other ocular witnesses, which itself prove that the deceased died due to rash and negligent driving of the driver of the offending vehicle, involvement of the vehicle and driving of the vehicle by the accused has never been disputed. Thus, the Order of conviction recorded by the learned Trial Court and confirmation of the learned Appellate Court are maintainable.

4. Heard the learned Counsel for both parties.

5. It appears that the learned Trial Court has believed the evidence of P.W.3 as eyewitness, Trip-sheet – Ex.P.10 to show that the accused was driving the lorry at the time of accident. The death of the deceased was also proved by the evidence of the Doctor. Thus, the Trial Court, on the basis of evidence of eyewitness i.e., P.W.3 convicted the accused. The learned Appellate Court has

also scanned the evidences on record and is of the view that there are no errors in the Order passed by the learned Trial Court.

6. In considering the argument laid before this court regarding non-scanning of evidences by the Appellate Court as well as the Trial Court, it appears to me that the learned counsel for the Petitioner has for the first time raised this point before this Revisional Court that the evidence of P.W.3 cannot be given credit that at the evening hours i.e., 5.00 P.M., no one can go to field. He further submits that bicycle was not damaged, but how the deceased died in the accident in the rear wheel of the vehicle. I have carefully gone through the observation of the learned Trial Court as well as the Appellate Court. This argument was never placed either before the learned Trial Court or before the learned Appellant Court. For the first time, this argument is mentioned before this Appellate Court.

7. However, on plain perusal of the evidences on record, in my view, the lorry is a big vehicle, having wheels placing two front and two backside. In a busy road, the vehicle can dash from the back side, if there is a narrow place. The evidences before the learned Trial Court as well as the learned Appellant Court have properly laid regarding the deposition of eyewitness (P.W.3). There are no other circumstances to disbelieve the evidence of P.W.3. At 5.00 P.M there may have some reasons to go to the field, but for that reason, the entire evidence of P.W.3 cannot be given discredit.

8. Considering the entire aspect, as the accident has been proved and involvement of the vehicle as well as the driving of the vehicle in a rash and negligent manner by the Petitioner has been proved by the prosecution. At this juncture, the factum of accident due to rash and negligent driving of the driver of the offending vehicle cannot be disbelieved. On that score, the recoding of conviction of sentence by the learned Trial Court, confirmed by the learned Appellate Court appears to me justified.

9. However, the instant incident happened in the year 2015. We have already crossed 15 years. The present Petitioner must have roaming before the Court to get justice. The mental agony of Petitioner is well founded. Punishment under Section 304-A of I.P.C., has prescribed – either imprisonment or fine or both. In this present scenario, I think the Order of conviction can be converted to an order of Sentence of fine only. The Petitioner is directed to pay fine of Rs.5,000/- (Rupees five thousand only) before the learned Trial Court within two (02) weeks from the date of passing of this Order.

10. Under the above observation, the Order of conviction is hereby modified. Criminal Revision application is disposed of.

Consequently, pending miscellaneous applications, if any shall stand dismissed.

JUSTICE SUBHENDU SAMANTA

Dated:05.12.2025.
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THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 379/2014

DATED:05.12.2025.

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