

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 2149 OF 2013

T.K. KUNJUMON

APPELLANT(S)

VERSUS

THE STATE OF KERALA

RESPONDENT(S)

ORDER

1. The appellant was convicted for the charge under Section 279 read with Section 304A of the Indian Penal Code, 1860 (hereinafter referred to as "IPC" for brevity) *vide* order dated 24.10.1998 passed by the Judicial First Class Magistrate II, Hosdurg in C.C. No. 930/1994 and was sentenced to a fine of Rs. 750/-, in default, 30 days Simple Imprisonment (SI) and to undergo six months Rigorous Imprisonment (RI) and a fine of Rs. 3,000/-, in default whereof, to undergo two months RI, respectively.
2. On filing Criminal Appeal No. 254 of 1998, the conviction and sentence as directed stood maintained *vide* order dated 28.02.2005 passed by the Additional Sessions Judge

(Adhoc-II), Kasaragod. Being aggrieved, Criminal Revision Petition No. 1865 of 2005 was filed, wherein also, the finding to prove the guilt of the appellant has been confirmed but the sentence is reduced from six months to three months. Being dissatisfied, the present appeal has been filed.

3. We have perused the record and also heard learned counsel for the parties who pressed this appeal only on the sentence. It is true that the appellant has not served even a day in jail but, at the same time it is also true that the incidence is dated 18.10.1994 of about 30 years back, and by this time the appellant has attained the age of superannuation and leading a retired life as a senior citizen. Looking to the time gap and the subsequent situation, Mr. Raghenth Basant, learned senior counsel appearing for the appellant, fairly submitted that subject to payment of some amount of compensation to the family of deceased, the sentence may be reduced applying the provisions under Section 357 of the Code of Criminal Procedure, 1973, maintaining the finding of conviction.
4. Learned counsel for the respondent-State has opposed the

prayer but he is not in a position to dispute the fact that under Section 304A IPC, even on conviction, the accused can be saddled with sentence or fine or with both, and imposition of sentence is not mandatory.

5. After hearing, in the peculiar facts of the case, in which the crime took place about 30 years back when the appellant was a driver in the Kerala State Road Transport Corporation in young age. There is no repeated instance of accident and now, on attaining the age of superannuation, he is leading retired life, therefore, in our view by maintaining the finding of conviction, sentence of three months can be purged subject to payment of compensation of Rs. 2,50,000/- to the family of the deceased. Ordered accordingly.
6. The said amount be deposited by the appellant within eight weeks from today in the trial Court which shall be immediately remitted through bank in the account of the family of the deceased with the assistance of District Legal Services Authority. In case of failure to deposit as above, the sentence as directed by the High Court shall revive and appellant shall undergo the sentence as directed.

7. With the aforesaid observations, the Criminal Appeal stands disposed of.

....., J.
[J.K. MAHESHWARI]

....., J.
[SANJAY KAROL]

New Delhi;
March 20, 2024.

ITEM NO.101

COURT NO.10

(Revised)
SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No. 2149/2013

T.K.KUNJUMON

Appellant(s)

VERSUS

THE STATE OF KERALA

Respondent(s)

Date : 20-03-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE SANJAY KAROL

For Appellant(s)

Mr. Raghenth Basant, Sr. Adv.
Ms. Kaushitaki Sharma, Adv.
Ms. Purna Acharya, Adv.
Ms. Purnima Krishna, AOR

For Respondent(s)

Mr. Harshad V. Hameed, AOR
Mr. Dileep Poolakkot, Adv.
Mrs. Ashly Harshad, Adv.
Mr. Shivam Sai, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The criminal appeal stands disposed of in terms of the
signed order.

(NIDHI AHUJA)
AR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER

[Corrected Signed order is placed on the file.]

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8. The appellant was convicted for the charge under Section 279 read with Section 304A of the Indian Penal Code, 1860 (hereinafter referred to as “IPC” for brevity) *vide* order dated 24.10.1998 passed by the Judicial First Class Magistrate II, Hosdurg in C.C. No. 930/1994 and was sentenced to a fine of Rs. 750/-, in default, 30 days Simple Imprisonment (SI) and to undergo six months Rigorous Imprisonment (RI) and a fine of Rs. 3,000/-, in default whereof, to undergo two months RI, respectively.
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[Signed order is placed on the file.]