

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.279 OF 2010

RAVI

..APPELLANT(S)

VERSUS

THE STATE THROUGH

SUB-INSPECTOR OF POLICE, DHANNURA.

..RESPONDENT(S)

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Karnataka in Criminal Appeal No.852 of 2003, dated 20.08.2008. By the impugned judgment and order, the High Court has allowed the appeal filed by the respondent- herein, set aside the judgment of acquittal passed by the Trial Court and convicted the appellant for the offences punishable under Sections 279, 337, 338 and 304-A of the Indian Penal Code, 1860 (for short, "the IPC") read with Section 187 of the Motor Vehicles Act, 1988 (for short, "the MV Act").

2. The brief facts of the prosecution case are that on 29.07.2001 at about 8:00 p.m. the appellant was driving a maxi cab in a rash and negligent manner and

dashed into a tractor and trolley parked by the side of the road, as a result of which two persons were injured and one person died. Further, the appellant did not inform the police about the accident. The owner of the tractor lodged a complaint with the police on the basis of which a First Information Report was registered.

3. After the completion of the investigation chargesheet was filed against the appellant for the offences punishable under Sections 279, 337, 338 and 304-A of the IPC read with Section 187 of the MV Act. Thereafter, the appellant appeared before the Trial Court and after both sides were heard, charges were framed. The charges were read over and explained to the appellant who pleaded not guilty. Accordingly, the case was committed to Trial.

4. In order to substantiate the charges framed against the appellant, the prosecution examined 9 witnesses and presented 11 documents and 5 material objects. After the completion of prosecution evidence, the statement of the appellant was recorded under Section 313 of the Code of Criminal Procedure (for short, "the Code") wherein the appellant denied all allegations

levelled against him. No evidence was led in defence of the appellant.

5. Upon examination of the evidence on record, by judgment and order dated 31.12.2002, the Trial Court held that the prosecution had failed to prove the charges against the appellant beyond reasonable doubt. The Trial Court found that the testimonies of the prosecution witnesses were full of inconsistencies and contradictions. The Trial Court observed that the accident occurred during rainy season, and that there were ditches dug on both sides of the road on which the accident occurred. Further, the maxi cab being driven by the appellant was a passenger vehicle carrying 10 to 15 persons. The Trial Court was therefore of the opinion that it was possible that the appellant drove the vehicle to a side to avoid the ditches to prevent harm to his passengers and in the process mistakenly hit the tractor and trolley parked on the side of the road. Accordingly, the Trial Court acquitted the appellant of all charges.

6. Being aggrieved by the said judgment and order passed by the Trial Court, the respondent-State preferred an appeal before the High Court. By its judgment and

order the High Court was of the considered view that the Trial Court had failed to appreciate the convincing evidence on record and had acquitted the appellant on untenable grounds. The High Court held that the testimonies of the eye witnesses proved the guilt of the accused beyond reasonable doubt. The evidence of the eye witnesses was also supported by other evidence placed on record including the motor vehicle accident report which ruled out the possibility of any mechanical defect in the maxi cab being driven by the appellant, the spot mahazar, the spot panchnama and the post mortem report.

7. Accordingly, the High Court convicted the appellant for the offences punishable under Sections 279, 337, 338 and 304-A of the IPC and Section 187 of the MV Act. The High Court sentenced the appellant to pay a fine of Rs.1,000/-, and in default to undergo simple imprisonment for a period of two months for the offence punishable under Section 337 of the IPC, to pay a fine of Rs.1,000/-, and in default to undergo simple imprisonment for a period of three months for the offence punishable under Section 338 of the IPC, to undergo simple imprisonment for a period of six months and also to pay a

fine of Rs.5,000/-, and in default to undergo simple imprisonment for a period of three months for the offence punishable under Section 304-A of the IPC, and further to pay a fine of Rs.500/-, and in default to undergo simple imprisonment for a period of fifteen days for the offence punishable under Section 187 of the MV Act. No separate sentence was awarded under Section 279 of the IPC since sentence was awarded for the offence punishable under Section 304-A of the IPC. The fine of Rs.5,000/- was to be paid to the father of the deceased.

8. Being aggrieved by the said judgment and order passed by the High Court, the appellant is before us in this appeal.

9. We have heard learned counsel for the parties to the *lis*.

10. The learned counsel for the appellant would assail the judgment and order passed by the High Court and submit that the High Court has reversed a well reasoned judgment and order passed by the Trial Court based on unreliable, inconsistent and contradictory testimonies given by the witnesses. The learned counsel

for the appellant would further submit that the High Court committed error by relying on the testimonies of interested witnesses including the owner of the tractor, the driver of the tractor, and the labourers working in the tractor, without corroboration by independent witnesses. The learned counsel would submit that whenever two views are possible, the benefit of the doubt must be given to the accused, and in that view of the matter, the High Court ought not to reverse the order of acquittal passed by the Trial Court.

11. The learned counsel for the appellant would rely on the evidence of PW-4 wherein he stated that the appellant was not driving at high speed, but was driving at the permissible speed of 40-50 kilometres per hour. The learned counsel for the appellant would draw the attention of this Court to the fact that at the time of the accident it was rainy season and ditches had been dug on either side of the road and therefore the appellant had taken due care and caution to avoid harm to his passengers by pulling to the side of the road. The learned counsel for the appellant would submit that in

that view of the matter, the order of conviction and sentence passed by the High Court should be set aside.

12. *Per contra*, the learned counsel appearing for the respondent-State would support the order of conviction and sentence passed by the High Court.

13. Having gone through the records of the case including the judgments and orders passed by the Courts below, we are of the considered opinion that the well reasoned order passed by the High Court needs no interference by this Court. Therefore, the appeal deserves to be dismissed and is accordingly dismissed.

14. By order dated 10.12.2008 the appellant-herein was exempted by this Court from surrendering. Since the appeal filed by the appellant is dismissed, the concerned authorities are directed to take the appellant into

custody forthwith to serve out the remaining period of sentence, if not already served.

Ordered accordingly.

.....CJI.
(H.L. DATTU)

.....J.
(ARUN MISHRA)

NEW DELHI,
SEPTEMBER 09, 2015.

ITEM NO.21

COURT NO.1

SECTION IIB

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(s). 279/2010

RAVI

Appellant(s)

VERSUS

STATE THR.SUB-INSP.OF POLICE,DHANNURA

Respondent(s)

(with office report)

Date : 09/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN MISHRAFor Appellant(s) Mr. Rajesh Mahale,Adv.
Mr.Krutin R.Joshi, Adv.

For Respondent(s) Ms. Anitha Shenoy,Adv.

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

The appeal is dismissed and the appellant is directed to be taken into custody forthwith to serve out the remaining period of sentence, in terms of the signed order.

(G.V.Ramana)
AR-cum-PS
(Signed order is placed on the file)

(Charanjeet Kaur)
AR-cum-PS