

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

CRIMINAL REVISION CASE NO.650 OF 2010

Between:

Shaik Areef Ahmed, S/o Shaik Immam, Aged 25 Years, Muslim, R/o
H.No.3-4-87, Ramagundam, Karimnagar.

...Petitioner/Appellant/Accused

AND

The State, through SHO PS LMD Colony, Karimnagar, Karimnagar
District, represented by Public Prosecutor, High Court of A.P.,
Hyderabad.

...Respondent

JUDGMENT PRONOUNCED ON:05.06.2024

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K. SURENDER

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

K. SURENDER, J

THE HON'BLE SRI JUSTICE K. SURENDER

+CRIMINAL REVISION CASE NO.650 OF 2010

%Dated 05.06.2024

Shaik Areef Ahmed, S/o Shaik Immam, Aged 25 Years, Muslim,
R/o H.No.3-4-87, Ramagundam, Karimnagar

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\$ The State, through SHO PS LMD Colony, Karimnagar,
Karimnagar District, represented by Public Prosecutor, High Court of
A.P., Hyderabad.

...Respondent

! Counsel for Petitioner: Mr. K. Venu Madhav

^ Counsel for Respondent: Assistant Public Prosecutor

< GIST :

> HEAD NOTE :

? Cases referred:

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL REVISION CASE No.650 OF 2010****JUDGMENT:**

This Criminal Revision Case is filed aggrieved by the judgment dated 26.03.2010 passed in Criminal Appeal No.74 of 2009 on the file of the learned I Additional District and Sessions Judge at Karimnagar (for short the 'appellate Court') confirming the judgment dated 22.06.2009 passed in C.C.No.386 of 2007 on the file of the learned Special Judicial Magistrate of First Class at Karimnagar (for short 'the trial Court').

2. The revision petitioner was convicted for the offence under Section 304-A of IPC and sentenced to undergo simple imprisonment for one year.

3. The brief case of the prosecution is that on 15.06.2006 revision petitioner/accused was driving lorry bearing No.AP-15-W-9567 in a rash and negligent manner and hit the scooter bearing No.AP-16-8050 on which the deceased was driving, from the backside. According to the case of the prosecution, the rear tyre of the lorry ran over the scooter and he was dragged to a distance of nearly 15 meters and the deceased died instantaneously. PW-1, who is the wife of the deceased, filed complaint with the police which is Ex.P-1. On the basis of the complaint, investigation was taken up. After

completion of investigation, charge sheet was filed. The trial Court examined PWs-1 to 11 and marked Exs.P-1 to P13.

4. Having considered the evidence of witnesses, the trial Court found that the accused was guilty of the offence and accordingly, convicted him and sentenced him to undergo simple imprisonment for a period of one (01) year. On appeal, the appellate Court, while concurring with the finding of the trial Court, dismissed the appeal.

5. The only ground raised by the learned counsel for the revision petitioner is that there are two versions in the complaint. Firstly, according to PW-2 and PW-3 who are alleged eye-witnesses to the accident have stated that they caught hold the accused who was driving the lorry and he was handed over to the police on the very same day. However, PW-10 has stated that the lorry driver himself surrendered on 19.6.2006 which is nearly four days thereafter. In view of the said contradictory versions, the very case of the prosecution cannot be believed.

6. On the otherhand, learned Public Prosecutor submits that since PWs.2 and 3, who are eye witnesses have stated that the accused had driven the lorry at the time of the accident. Therefore, the said discrepancy had no significance. Both the learned trial Court as well as learned appellate Court found that PW-2 and PW-3 have apprehended and identified the accused as the person who

drove the crime vehicle-lorry. He submitted that for the above reasons, there needs no interference in the concurrent findings of the Court below.

7. Having gone through the record, it is the specific case of PW-2 and PW-3 that they caught hold the driver and handed over to the police on the very same day i.e., on 15.06.2006. If such is the case, the aspect of driver surrendering before the police officer on 19.06.2006 which is four days thereafter does not arise. Ex.P-1 complaint was filed by PW-1 who is the wife of the deceased. The name of the accused is not mentioned in the complaint. If the version of PW-2 and PW-3 is to be believed that they caught hold of the driver/accused and handed over him to the police, the probabilities are that the complaint ought to have been filed by PW-2 and PW-3 and accused arrested on the same day. Since the entire version of catching hold of the driver on the very same day by PW-2 and PW-3 eye witnesses, runs contrary to the case of the prosecution, version of PW-10 investigating officer that the accused was arrested after he surrendered four days after the accident, it raises any amount of doubt regarding the prosecution case. In view of the said discrepancy, benefit of doubt is extended to the revision petitioner and the conviction imposed by the learned trial Judge, confirmed by the learned Sessions Judge is hereby set-aside.

8. Accordingly, the Criminal revision is allowed.

Miscellaneous applications pending, if any, shall stand closed.

Date: 05.06.2024
vrks

K.SURENDER, J