

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
CRIMINAL REVISION CASE.No. 808 OF 2018

BETWEEN

Md.Vaseem Khan

... Petitioner/Appellant/Accused

And

The State of Telangana
Rep by.Public Prosecutor
High Court for the State of Telangana.

... Respondent/Complainant

Date of Judgment Pronounced: 10.07.2023

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE K.SURENDER

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

JUSTICE K. SURENDER

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL REVISION CASE.No. 808 OF 2018

% Dated 10.07.2023

Md.Vaseem Khan,
S/o.Md.Habeeb Khan,
Age:35, Occ: Lorry Driver,
R/o.9-2-107, Contractir Basthi,
Bellampalli Mandal,
Mancherial.

... Petitioner/Accused

\$ The State of Telangana
Rep by.Public Prosecutor
High Court for the State of Telangana.

... Respondent/Complainant

! Counsel for Petitioner : Sri G.V.S.Mehar Kumar

^ Counsel for respondent: Public Prosecutor

<GIST:

> HEAD NOTE:

? Cases referred

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL REVISION CASE No.808 OF 2018

ORDER:

The petitioner/accused is questioning the findings of the trial court in convicting the petitioner for causing death of one person and injuring another by driving his lorry in rash and negligent manner and causing the accident.

2. Briefly the prosecution case is that on 25.12.2010, at about 6.30 p.m., while the deceased was on one motor cycle and Pw.2 was on another motorcycle, who is the only eye witness, the lorry allegedly overtook the said motorcycle and dashed against two other motorcycles. The driver of the first motorcycle received grievous injuries and died on the spot. The driver of the second motorcycle also received injuries. Pw.2 made an attempt to apprehend the driver of the lorry, but the driver stopped the lorry at a distance of 200 meters from the accident place and the driver of the lorry fled.

3. It is further the case of the prosecution that the accident happened on 25.12.2010 and three days thereafter, i.e., on 28.12.2010, Pw.7, who was the owner of the lorry produced the driver before the police and the driver of the lorry was remanded to judicial custody.

4. Learned counsel appearing for the petitioner would submit that it cannot be believed that the petitioner was the driver of the lorry. Admittedly, none of the witnesses had identified the driver.

5. On the other hand, the learned Public Prosecutor would submit that there is no necessity for Pw.7 to take some other person as driver of the lorry. Since the driver was produced by the owner himself three days after the accident, the lower Court was correct in believing that the petitioner was the driver who caused the accident.

6. As seen from the evidence of P.w.7, who is the owner of the lorry has turned hostile to the prosecution case. Pw.10, investigating officer stated that Pw.7 has brought the petitioner herein to the Police Station. No further investigation or test identification parade was done by the Investigating Officer to ascertain the identity of the petitioner who was produced by Pw.7.

7. Pw.2 was examined on 10.09.2015 and Pw.3 was examined on 26.11.2015 i.e., five years after the accident. According to him, around 6.45 p.m., the petitioner had gone to a distance of nearly 200 meters away from the place of the

accident and there the driver stopped the lorry, got down and fled.

8. In December, as it is winter season by 6.30 p.m. it normally gets dark. The petitioner is a stranger to Pw.2. It is highly improbable that Pw.2 identified the petitioner as the driver of the lorry after 5 years in Court without Test identification parade, only on the basis of seeing the driver from a distance of 200 meters. The said identification of Pw.2 and 3 cannot be believed. For the said reason, the petitioner succeeds.

9. Accordingly, the Criminal Revision Case is allowed and petitioner is acquitted. The bail bonds shall stand discharged.

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

K. SURENDER, J

Date: 10.07.2023
CHS/TU
Note:LR copy marked