

APHC010600092015



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

[3560]

WEDNESDAY, THE EIGHTH DAY OF APRIL  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**

**CRIMINAL REVISION CASE NO: 2306/2015**

**Between:**

1. GANTAYETTU ANIL KUMAR, SRIKAKULAM DIST., S/O. BALARAM SWAMY, DRIVER, R/O. SRI NEELAMANI DURGAMMAVARI COLOY, PATHAPATNAM VILLAGE AND MANDAL, SRIKAKULAM DISTRICT.

**...PETITIONER**

**AND**

1. P P HYD, rep. by Public Prosecutor, High Court of Hyderabad, at Hyderabad.

**...RESPONDENT**

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to be filed under Section 397 & 401 of Cr.P.C., against the judgment dated 29.09.2015 passed in CrI.A.No.25/2013 on the file of the Court of Special Judge for trial of cases under SCs & STs (POA) Act - cum- Additional District and Sessions Judge, Srikakulam, Srikakulam District filed against the judgment passed in C.C.No.146/2011, dated 04.03.2013 on the file of the Court of the Judicial Magistrate of First Class, Pathapatnam, Srikakulam District.

**IA NO: 1 OF 2015(CRLRCMP 3537 OF 2015)**

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 dispense with the filing of the certified copy of the judgment passed in CC.No. 146 of 2011 dated 4-3-2013 on the file of the court of the Judicial Magistrate of First Class, Pathapatnam, Srikakulam District.

**IA NO: 2 OF 2015(CRLRCMP 3591 OF 2015)**

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 suspend the sentence of imprisonment passed against the petitioner in CC.No. 146 of 2011 dated 4-03-2013 on the file of the court of the Judicial Magistrate of First Class, Pathapatnam, Srikakulam District as confirmed in the judgment passed in Crl.A.No.25/2013 dated 29-09-2014 on the file of the Court of Special Judge for trial of cases under SCs & STs (POA) Act - cum-Additional District and Sessions Judge, Srikakulam, Srikakulam District and release the petitioner on bail.

**Counsel for the Petitioner:**

1.ARAVALA RAMA RAO

**Counsel for the Respondent:**

1.PUBLIC PROSECUTOR (AP)

**The Court made the following:**

**THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA**

**CRIMINAL REVISION CASE No.2306 OF 2015**

**ORDER:**

1. The instant criminal revision case is filed against the order of conviction and sentence passed under Section 304-A of the Indian Penal Code, as affirmed by the concurrent findings of the learned trial court and the learned appellate court.
2. **BRIEF FACTS OF THE PROSECUTION CASE:**
  - a) On 02.05.2011, the deceased went to the Panchayat Office to collect his old age pension. At that time, the petitioner, who was the driver of an auto, drove the vehicle in a rash and negligent manner and hit the deceased. As a result, the deceased fell down and sustained injuries, to which he later succumbed.
  - b) During trial, prosecution has examined as many as nine witnesses and also produced several documents. After recording the evidence of prosecution witnesses and hearing the arguments of both parties, the learned trial court convicted the petitioner for the offence punishable under Section 304-A of IPC and directed him to suffer simple imprisonment for one year with fine of Rs.2,000/-. The said order of conviction was challenged before the learned appellate court. The appellate court, though have confirmed the order of

conviction, reduced the sentence of simple imprisonment for one year to 6 months. Hence, the instant criminal revision case.

**3. SUBMISSIONS ON BEHALF OF THE PETITIONER:**

- a) The learned counsel for the petitioner fairly submits that the petitioner, being an auto driver, was driving the vehicle properly. However, prosecution has failed to bring home the charge against the petitioner to prove that the petitioner was driving the auto in a rash and negligent manner.
- b) He further submits that the petitioner had no intention to cause such accident, but due to sudden burst of front tyre, the accident had happened. It is further submitted that the petitioner is an old aged person, has been dealing with the criminal litigation since 2007. Therefore, it is prayed that the case may be considered sympathetically.

**4. SUBMISSIONS ON BEHALF OF THE STATE:**

- a) The learned Assistant Public Prosecutor submitted the prosecution has proved the charge against the petitioner. To prove the case, prosecution examined as many as nine witnesses. The evidence of the prosecution witnesses consistently stated that the accused was driving the auto in a rash and negligent manner. PW1, the son of the deceased, was present at the time of the accident. The other

witnesses are the ocular witnesses who has categorically supported the prosecution witnesses in toto.

- b) PW7 is the Motor Vehicle Inspector, who inspected the offending vehicle and submitted a report stating that the accident was occurred due to rash and negligent driving and not due to any mechanical defect. The scene observation report Ex.P.4 suggests that there is skid marks over the road and thereby the speed and the negligent driving of the petitioner was proved. The accident report suggests several injuries were sustained by the deceased on his person.
- c) PW8, the doctor, who conducted post-mortem examination, opined that death of the deceased was due to injuries sustained in road accident. The learned Assistant Public Prosecutor further submits that plying the vehicle with a defective tyre itself amounts to negligence, which was recorded by the learned trial court and the appellate court. Thus, the order of conviction and sentence cannot be set aside.

5. Heard Sri Gopinadh Yadav, learned counsel, representing Sri Aravala Ramarao, the learned counsel for the petitioner and Sri K.Sandeep, the learned Assistant Public Prosecutor appearing for the State.

6. **OBSERVATIONS OF THE COURT:**

- a) In this particular case, it has been alleged that the deceased, while going to the Panchayat office to collect his old-age pension, at that time, the petitioner, being the driver of the auto, drove the auto in a rash and

negligent manner and dashed the deceased. The case of the prosecution was duly corroborated by the witnesses. P.W.1, son of the deceased, is an eyewitness to the accident. His statement was not shaken during cross examination and the other ocular witnesses also supported the prosecution case. The only defence placed before the learned trial court was that the accident occurred due to sudden bursting of front tyre of the auto. The fact regarding the tyre burst was proved by Ex.P5.

- b) PW7 is the motor vehicle inspector who stated before the court that the accident occurred not due to a mechanical defect of the crime vehicle, though he observed that he found the auto tyre was punctured. The learned trial court has categorically observed that driving an auto with damaged or worn-out tyres is a negligent act.
- c) If we carefully observed the case, it would be difficult to hold that the petitioner had any intention to drive the vehicle in a rash and negligent manner. Though the auto had worn-out tyres, the petitioner, being the driver and owner, had plied the vehicle. Therefore, the responsibility of the owner, i.e., the petitioner to ply vehicle by "worn out" tyre, cannot be denied. In that score, I find that the observation of the learned trial court is justified. Accordingly, the order of conviction and sentence passed by the trial court and confirmed by the learned appellate court, suffers no illegality in the attending facts and circumstances of the case.

d) However, considering the long pendency of the matter and also the fact that the petitioner may not have so negligent to cause the accident and that bursting of tyre is one of the reasons for causing the accident, I think the petitioner requires to be treated leniently. Accordingly, the order of conviction and sentence for a period of six months is hereby converted to a fine of Rs.5,000/-. The petitioner is directed to pay the fine, apart from the fine already paid before the learned trial court, within four (04) weeks from the date of this order.

7. Accordingly, the criminal revision case is disposed of.

8. Pending miscellaneous petition(s), if any, shall stand closed.

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**JUSTICE SUBHENDU SAMANTA**

Dt.08.04.2026

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