

APHC010662112012



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

[3560]

WEDNESDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 2357 OF 2012

Between:

1. CHEKKA YESU,, S/O KRISHNA, OCC: DRIVER, R/O
ROWTHULAPUDI VILLAGE & MANDAL, EAST GODAVARI DISTRICT.

...PETITIONER

AND

1. THE STATE OF AP REP. BY ITS PUBLIC PROSECUTOR, HIGH
COURT OF A.P.

...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 present this Memorandum of Crl.R.C., aggrieved by the order passed in Crl.A.No.411 of 2011, dt 19.11.2012 on the file of the Court of the IV Addl. Sessions Judge, Kakinada, East Godavari District filed against the Judgment passed in CC.No.848 of 2007, dt. 18-10-2011 on the file of the Court of J.F.C.M., Tuni, East Godavari District.

IA NO: 1 OF 2012(CRLRCMP 3541 OF 2012)

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 execution of sentence imposed against the petitioners passed in Crl.A.No.471 of 2011, dt.19-11-2012 on the file of the Court of IV Addl. Sessions Judge, Kakinada, East Godavari District, filed against the Judgment passed in CC.No.848 of 2007, dt 18-10-2011 on the file of the Court of the

J.F.C.M., Tuni, East Godavari District, release the petitioner on bail, pending disposal of the CrI.R.C.,

Counsel for the Petitioner:

1. T S N MURTHY

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

The Court made the following Order:

The instant Criminal Revision Case has been filed against the order of conviction of the Petitioner under Section 304-A of IPC.

2. Learned counsel for the Petitioner submits that the impugned Judgment of learned Trial Court suffers illegality. The evidences lead before the learned Trial Court is not justifiable to record the conviction. There are several discrepancies in the evidences, thus the conviction is liable to be set aside.

3. Learned Assistant Public Prosecutor submits that learned Trial Court has recorded the conviction of the Petitioner. On the basis of prosecution witnesses, there are justifications to hold that the present Petitioner being a driver of a tripper lorry had been driving the lorry in a rash and negligent manner, thereby one death has been occurred. Learned Appellate Court also categorically scanned the evidences and thereby affirmed the order of conviction.

4. Learned Assistant Public Prosecutor further argued that there is no illegality or impropriety in the impugned order passed by learned Courts below. Hence, the Criminal Revision Case is liable to be dismissed.

5. Having heard learned counsel for the parties, perused the order of conviction recorded by learned Trial Court, it appears that the prosecution to prove the case has examined as many as six witnesses and several documents are exhibited.

6. In a nutshell, the prosecution case is that on 03.12.2007 at about 8.20 a.m while the deceased was driving a Bajaj CT 100 motorcycle bearing Registration No. AP 31 AN 6247 with pillion rider i.e PW-1. PWs 3 and 4 are also accompanied with them by another motorcycle. They were proceeding towards a temple to offer pooja over NH-5. When they are proceeding the Petitioner was driving a tripper lorry (offending vehicle) in front of the deceased. It is the prosecution case that the Petitioner being a driver drove the tripper lorry in a rash and negligent manner and suddenly took a right turn over National High Way without giving proper signal or by not taking any precautions. In the result the deceased, who was drove the Bajaj motorcycle behind the lorry suddenly dashed the lorry and succumbed to the injuries in hospital.

7. Learned counsel for the Petitioner has pointed out the evidences lead before learned Trial Court and their cross examinations. It is the sole case of the defence that PW-1 was not present at the time of accident and evidences

of PWs 3 and 4 cannot be believed. The discrepancies which were pointed out before this Court that PW-3 while stated that the distance of deceased motorcycle and their motorcycle was 250 meters. Whereas, PW-4 stated it is to be 100 meters.

8. Learned counsel for the Petitioner further pointed out that the lorry which was driven by the Petitioner has already taken turn to the right side and the deceased and PW-1 it drove motorcycle at 30 km/h, it was possible to stop the motorcycle after seeing the lorry taken turn.

9. In understanding the argument of learned counsel for the Petitioner, it appears that in prosecution case there are three eye witnesses, all the witnesses stated about the accident, which happened in broad day light. There are some discrepancies regarding distance of deceased motorcycle and motorcycle driven by PW-3 in highway, such variance of statements of PWs 3 and 4 cannot be said to be fatal discrepancy to the prosecution case. Moreover, scene mahazor report drafted by PW-5 was placed on record, which exhibited through PW-5, filing complaint by PW-5 can implies only, it does not mean a discrepancies as PW-1 has already lodged complaint with Police in this case.

10. However, in my view, the discrepancies as pointed out by learned counsel for the Petitioner are very minor discrepancies. The evidences of PWs suggested act of negligence on the part of the Petitioner. It is true that the Petitioner should have taken proper caution in driving the heavy vehicle. The

witnesses i.e PWs categorically stated before the learned Trial Court that the Petitioner has suddenly take a right turn without signal. There are no cross examination to that effect that the Petitioner was driving the offending vehicle with proper signal.

11. Considering the entire aspect and also considering the observation of learned Trial Court as well as learned Appellate Court, I find no justification to entertain the instant Criminal Revision at this stage. Accordingly, the order of sentence passed by learned Trial Court, confirmed by the learned Appellate Court suffers no illegality or impropriety. However, the incident was happened in the year 2007. The present Petitioner has been appearing before the Courts below and also this Court for a long time. The punishment under Section 304-A of IPC suggests conviction or a fine. In this case, learned Trial Court has ordered conviction against the present Petitioner for one year and to pay a fine of Rs. 1,000/-.

12. Having regard to the fact that the Petitioner must have grilled with the long pendency of criminal litigation and also considering the age of the present Petitioner, the punishment of simple imprisonment of one year is converted into a fine of Rs. 5,000/- (Rupees five thousand only).

13. Under the above observation, the Petitioner is directed to pay a fine of Rs. 5,000/- (Rupees five thousand only) before learned Trial Court, within a period of eight (08) weeks from the date of passing of this order, failing which the order of conviction would be maintained.

14. Accordingly, the instant Criminal Revision Case is disposed of.

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

SUBHENDU SAMANTA, J

Date: 11.03.2026

KK

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 2357 OF 2012

11.03.2026

KK