

Satish Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Mar-22-2013

Appellant : Satish

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Ashish Sinha

Judgement :

COURT OF MADHYA PRADESH JABALPUR Criminal Revision No.361/2013
Satish Vs. State of Madhya Pradesh

Present : Hon'ble Shri Justice N.K. Gupta.

----- Name
of counsel for the parties: Shri Ashish Sinha, counsel for the applicant. Shri G.S.
Thakur, Panel Lawyer for the respondent/State.

ORDER

(Passed on 22nd day of March, 2013) The applicant was convicted for the offence punishable under Section 304-A of IPC vide judgment dated 31.10.2012 passed by the learned J.M.F.C. (Shri Aayan Girdoniya), Sehore in criminal case no.813/11 and sentenced for 14 months' S.I. with fine of `500/-. In criminal appeal no.299/12, the learned Sessions Judge, Sehore maintained the conviction but the sentence was reduced for a simple imprisonment of six months and no change in the fine

was directed. Being aggrieved with the aforesaid judgments, the applicant has preferred the present revision.

2. The prosecution's case, in short is that, on 15.3.2011 at about 8:30 p.m. the deceased Kailash alongwith his wife Syamubai 2 Criminal Revision No.361/2013 were going back to their house situated at village Lalakhedi and therefore, they were travelling in a tempo trax on higher. At the spot, situated at Khokhri Road turn, they got down from the trax and the applicant dashed the deceased Kailash by a motorcycle and hence, the deceased died. An FIR was lodged and thereafter a charge sheet was filed after due investigation.

3. The applicant abjured his guilt. He did not take any specific plea and therefore, no defence evidence was adduced.

4. The learned J.M.F.C. after considering the prosecution's evidence convicted and sentenced the applicant as mentioned above, whereas the learned Sessions Judge vide judgment dated 9.1.2013 maintained the conviction but sentence is reduced as mentioned above.

5. I have heard the learned counsel for the parties.

6. The learned counsel for the applicant has submitted that the applicant does not want to challenge the conviction directed against the applicant. He was the first offender and he remained in the custody for more than ten weeks. Though, it was alleged by the prosecution that he was negligent but the contributory negligence of the deceased cannot be brushed aside. The applicant is a bread earner of his family and if he is kept in the custody for a longer period then, his family will be spoiled. It was not a sole negligence of the applicant. Also consider the fact that the applicant was the first offender and the custody period of the 3 Criminal Revision No.361/2013 applicant, his sentence may be reduced to the period, which he has already undergone in the custody by enhancing some fine.

7. After considering the submission made by learned counsel for the applicant and looking to the facts and circumstances of the case, the contention advanced by the learned counsel for the applicant can be accepted. It is true that the applicant was

the first offender and he is a bread earner of his family. He remained in the custody for ten weeks. It is also possible that there was a contributory negligence of the deceased that he got down from the four wheeler in the mid road and met with an accident. According to the spot map, the incident took place in the mid of the road. Looking to such circumstances, the custody period in which the applicant remained in the jail appears to be a sufficient jail sentence. Hence, his jail sentence may be reduced to the period which he has already undergone in the custody but some fine may be enhanced.

8. On the basis of the aforesaid discussion, the revision filed by the applicant is hereby partly allowed. The conviction directed for the offence punishable under Section 304-A of IPC is hereby maintained but the sentence is reduced to the period, which he has already undergone in the custody, whereas the fine is enhanced from the sum of Rs.500/- to the sum of Rs.10,000/-. The applicant is directed to deposit the remaining fine amount before the trial Court. In default of payment of fine, he shall undergo for 4 Criminal Revision No.361/2013 six months R.I. If fine is deposited by the applicant then, a sum of Rs.5,000/- be given to Smt. Shyamubai, W/o Kailash R/o Lalakhedi, Police Station, Mandi District Sehore by way of compensation.

9. At present, the applicant is in custody therefore, office is directed to arrange for issuance of a super session warrant so that the applicant may be released, if he deposits the remaining fine amount before the trial Court or the jail authorities.

10. Copy of this order be sent to both the Courts below alongwith their records for information and compliance. (N.K. GUPTA) JUDGE 22 03.2013 pnkj

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