

Rajendra Vs. the State of Madhya Pradesh

Rajendra Vs. the State of Madhya Pradesh

SooperKanoon Citation : sooperkanoon.com/1046084

Court : Madhya Pradesh

Decided On : Apr-15-2013

Appellant : Rajendra

Respondent : The State of Madhya Pradesh

Judgement :

HIGH COURT OF JUDICATURE MADHYA PRADESH, JABALPUR SB: HON. SHRI N.K.GUPTA,J.CRIMINAL REVISION NO.108/2013 Rajendra Vs. State of Madhya Pradesh.

----- Shri Neeraj Nahar, Advocate for the applicant. Shri Prakash Gupta, Panel Lawyer for the respondent-State.

ORDER

(Passed on the 15th day of April, 2013) The applicant was convicted for the offence punishable under Sections, 279 and 304-A of IPC vide judgment dated 5.9.2012 passed by the Nyayadhikari, Gram Nyalaya, Sagar (Shri Ramji Gupta) in Criminal Case No.37/2011 and sentenced for the offence under Section 304-A of IPC with two years' RI with fine of Rs.1000/-. In Criminal Appeal No.437/2012 the learned First Additional Sessions Judge, Sagar vide judgment dated 16.1.2013 dismissed the appeal in toto. Being aggrieved with both the judgments, the applicant has filed the present revision.

2. The prosecution case, in short, is that on 23.9.2006 at about 2:00 PM the deceased Pradeep was moving near the primary school situated at Village Bilhara (Police Station Surkhi District Sagar). The applicant came by driving a jeep bearing registration not MP15-A3136 and 2 Criminal Revision No.108/2013 dashed the victim Pradeep in a forceful manner due to which the victim Pradeep aged nine years had expired. After due investigation, a charge sheet was filed.

3. The applicant-accused abjured his guilt. He did not take any plea in the case, therefore no defence evidence was adduced.

4. After considering the prosecution evidence, the learned Gram Nyalaya, Sagar convicted the applicant for the offence under Sections 279 and 304-A of IPC but sentenced only for the offence under Section 304-A of IPC, whereas the appeal filed by the applicant was dismissed in toto.

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

6. The learned counsel for the applicant has submitted that the applicant was youth of 28 years of age, who was the first offender. There was contributory negligence of the deceased also. However, the applicant does not challenge the conviction directed against him, but looking to the fact whereas he has faced the trial, appeal and revision for last seven years and he remained in the custody for three months, it is prayed that the sentence of the applicant may be reduced to the period which he has already undergone in the custody.

7. After considering the submissions made by the learned counsel for the parties and looking to the evidence adduced by the prosecution, it appears that Kallu (PW-1), 3 Criminal Revision No.108/2013 Hardayal (PW-4) etc. were examined as eye-witnesses. Out of them, Hardayal turned partially hostile. However, it is proved that the applicant could not stop his vehicle and a wheel was passed over the body of the victim Pradeep. Under such circumstances, the learned Nyayadhikari, Gram Nyalaya has rightly held that the applicant was negligent and due to his negligence, the victim Pradeep expired. Under such circumstances, the conviction directed by the learned courts below appears to be correct.

8. So far as the sentence is concerned, it is true that the applicant was the first offender. There is no previous record that he drove the vehicle in negligent manner. He has a bright future against him. He has faced the trial, appeal and revision for last seven years. He remained in the custody for more than three months. Under such circumstances, it is a fit case in which the sentence directed against the applicant may be reduced for the period which he has already undergone in the custody, but some enhancement in the fine may be directed.

9. On the basis of the aforesaid discussion, the present revision filed by the applicant is partly allowed. The conviction directed against the applicant for the offence punishable under Sections 279, 304-A of IPC is hereby maintained, but the jail sentence is reduced to the period which he has already undergone in the custody. But fine amount is enhanced from a sum of Rs.1000/- to a sum of 4 Criminal Revision No.108/2013 Rs.10,000/-. In default of payment of fine, the applicant shall undergo for six months RI in addition. If fine is deposited, then a sum of Rs.7000/- may be given to the parents of the deceased Pradeep by way of a compensation.

10. The applicant is in custody, and therefore office is directed to arrange for issuance of super-session warrant so that the applicant may be released, if he deposits the fine amount before the trial Court or before the jail authorities.

11. A copy of this order be sent to the trial Court as well as appellate Court along with their records for information and compliance. (N.K.Gupta) Judge 15/04/2013
Ansari

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com