

Domnic Luis Vs. State Represented by the Pp

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Court : Mumbai Goa

Decided On : Apr-04-2014

Judge : U.V. Bakre

Appeal No. : Criminal Revision Application No. 30 of 2013 And Stamp Number (Appln) No. 910 of 2014

Appellant : Domnic Luis

Respondent : State Represented by the Pp

Judgement :

Oral Judgment:

1. Heard Mr. Bras De Sa, learned Counsel appearing on behalf of the petitioner, and Mrs. Gomes Pinto, learned Additional Public Prosecutor (A.P.P.) appearing on behalf of the respondent.

2. By this Revision Application, the petitioner has taken exception to the judgment and order dated 04/10/2013 passed by the learned Sessions Court, South Goa, Margao (Sessions Court) in Criminal Appeal No. 49/2011. The Revision Application was admitted on 1/10/2013 and hearing was expedited. In this Revision Application, on 03/04/2014, i.e. yesterday, the applicant filed an application under Stamp Number Application No. 910 of 2014 praying therein to direct the respondent to conduct a narco analysis test and/or brain electrical activation test of the petitioner prior to hearing the petitioner's Revision Application.

The Revision Application as well as the said Miscellaneous Application are taken up together for final hearing.

3. The petitioner was the appellant in the said Criminal Appeal No. 49/2011 and had challenged the judgment and order dated 05/05/2011 passed by the learned Judicial Magistrate, First Class, Margao ('JMFC' for short), by virtue of which, he was convicted and sentenced for offence punishable under Sections 279 and 304-A of I.P.C. The Appellant shall, hereinafter, be referred to as the accused.

4. The State through Maina-Curtorim Police Station had filed charge sheet against the accused alleging that he drove the Pick-up bearing registration No. GA-02/T-5362 in a rash and negligent manner on 22/04/2006 at about 16.00 hours, while proceedings from Curtorim towards Macazana and on reaching at Nova Bazaar, Macazana, the accused dashed against an oncoming motorcycle bearing registration no. GA-02/H-4069, due to which, the rider of the motorcycle sustained grievous injuries and succumbed to them on the way to hospital.

5. Substance of accusation was duly explained to the accused by the JMFC and he pleaded not guilty. The prosecution examined 11 witnesses in order to prove the charge against the accused. The accused was then examined under Section 313 of Cr.P.C. and he examined two witnesses and also himself and closed the case.

6. Upon consideration of the material on record, the learned JMFC held the accused guilty of the offences punishable under Sections 279 and 337 of I.P.C. The accused has been sentenced to undergo Simple Imprisonment for a period of one month and to pay fine of Rs. 1,000/-, in default, to undergo Simple Imprisonment for further period of 15 days for the offence punishable under Section 279 of I.P.C., and in respect of the offence under section 304-A of I.P.C., he has been sentenced to undergo Simple Imprisonment for a period of six months and also to pay fine of Rs. 2,000/-, in default to undergo Simple Imprisonment for further period of one month. Both the sentences of imprisonment have been ordered to run consecutively. Aggrieved by the judgment, order and sentence of the learned JMFC, the accused filed Criminal Appeal No. 49/2011. By judgment and order dated 04/10/2013, the learned Sessions Court dismissed the

appeal and confirmed the judgment, order and sentence imposed by the learned JMFC. It has been further ordered that the amount imposed as fine, if recovered, shall be paid as compensation to the widow of the deceased in terms of Section 357 of Cr.P.C. The above judgment and order of the Sessions Court is impugned in the present Revision Application.

7. Mr. De Sa, learned Counsel appearing on behalf of the accused submitted that this was a case of mistaken identity. He submitted that there was ample evidence on record showing that the vehicle was driven by the brother of the accused and no test identification parade was conducted in this matter. He, therefore, submitted that the application for narco analysis test should be ordered to find out as to whether the accused was the driver. He relied upon the judgment of the Hon'ble Supreme Court in the case of **œSelvi and others Vs. State of Karnataka,?** [(2010) 7 SCC 263]. The learned Counsel submitted that the accused is willing to undergo the said test and, therefore, no prejudice will be caused to the prosecution since if the accused is exonerated, his brother shall be tried for the same offence and, therefore, the matter would not end.

8. Learned Counsel appearing on behalf of the accused further alleged that the offence under Section 304-A of I.P.C. is punishable with imprisonment or with fine or both. He submitted that the imprisonment is not compulsory. He urged that the accused has already undergone imprisonment for a period of 11 days and is ready and willing to pay compensation of about Rs. 3,00,000/- to Rs. 4,00,000/- to the family of the deceased. He submitted that the accused would not mind if the conviction is maintained provided the sentence is altered as above. Counsel relied upon the judgment of learned Single Judge of this Court case of **œDayanand Ramharskutti Vs. State?**, [2001 BOM. C. R. (Cri.) 902]. He also relied upon the judgment of the Hon'ble Supreme Court in the case of **œPuttaswamyVs. State of Karnataka and another?**, [2008 B.C.I. 56].

9. On merits, the learned Counsel, in addition to the submission that the accused was not identified as the driver of the offending vehicle, beyond reasonable doubt, contended that merely because an accident had taken place and unfortunate death had occurred, that does not mean that the accused was rash or negligent in

driving the vehicle. He submitted that the panchanama of the scene of accident and the sketch are not substantive pieces of evidence. According to the learned Counsel, the evidence of PW1 who was one of the panch witnesses and of PW2 who allegedly showed the place of accident to the panchas, was not sufficient to prove the exact spot of accident and, therefore, the point of impact was not proved. He pointed out from the evidence of PW1 that the accident spot was shown to the panchas by the police and there were no brake marks on the road. He further pointed out that the Pick-up driven by the accused was almost on the left hand side of the road. He questioned as to why PW2, who was a Police Constable did not take the accused in custody, if at all he was present at the spot. He, thus, contended that PW2 was not present at the spot. He assailed the testimony of PW4 contending that the same was of an interested person being the wife of the deceased. He pointed out some omissions, which have been brought on record. He further submitted that though the evidence of PW4 showed that the accused was driving the said Pick-up, however, her evidence did not at all prove the rashness and negligence on his part. He submitted that the evidence of other eye witnesses was not sufficient to prove the rashness and negligence on the part of the accused. According to him, the point of impact, not having been proved, on this ground itself, the accused was entitled to be acquitted. He submitted that in an accident, there can be an error of judgment, which can never be held to be rashness or negligence. He also submitted that speed by itself does not amount to rashness or negligence. Learned Counsel pointed out that even the evidence of Investigating Officer did not prove the point of impact. My attention was invited to the postmortem examination report which revealed that multiple injuries were sustained by the deceased to his head. Learned Counsel, therefore, submitted that the deceased was not wearing the helmet. He also pointed out that there was no evidence to prove that the deceased was having driving licence. According to the learned Counsel, the effect of all the above was that the deceased himself was responsible for the accident. In such circumstances, according to the learned Counsel, the evidence of the accused (DW3) and of his witnesses namely DW1 and DW2 could not have been disbelieved. He, therefore, submitted that either the application of the petitioner for narco analysis test be allowed by keeping the Revision Application pending or otherwise the Revision Application itself be

allowed and the accused be acquitted.

10. On the other hand, Mrs. Gomes Pinto, learned A.P.P. submitted that the accused had previously filed Criminal Miscellaneous Application No.192/2013 for the same purpose i.e. for narco analysis test, but, subsequently, he withdrew the same. Learned A.P.P. showed to this Court the order dated 21/10/2013 whereby leave was granted to the accused to withdraw the said previous application. She further submitted that the said application ought to have been filed during the investigation or at least in the Court of JMFC. She pointed out that the accident had occurred in the year 2006 and the present application for narco analysis test is filed now after about 7 years and, therefore, the said narco analysis test would not serve any purpose. She further submitted that eye witnesses stated that the accused was the driver, but there was no suggestion put to them that actually it was the brother of the accused, who was driving the Pick-up. Learned A.P.P. further submitted that the father and sister of the deceased are present in the Court and are vehemently objecting to receiving any compensation and want that the culprit should be adequately punished. Learned A.P.P. pointed out from the panchanama of scene of accident and sketch that the accident spot was duly shown on the sketch. She submitted that in the cross-examination of PW1, the pancha witness, the said accident spot was not disputed. Learned A.P.P. submitted that PW4 is the wife of the deceased and she was the pillion rider on the motorcycle ridden by the deceased and therefore was the best witness. Learned A.P.P. alleged that the evidence of PW4 sufficiently established rashness or negligence on the part of the accused. She pointed out that the evidence of PW4 was duly corroborated by other two eye witnesses, namely PW2 and PW11. Learned A.P.P. submitted that these witnesses had no reason to depose falsely against the accused. Insofar as the defence witnesses are concerned, learned A.P.P. submitted that according to DW1 and DW2, the dash was given to left hand side bumper of the Pick-up and that there was damage to the said left hand side bumper and shock absorber. She pointed out from the evidence of PW5, the Motor Vehicle Inspector, that the damages to the said Pick-up were all on the front right hand side and not on the left hand side. She further pointed out that DW3, the accused stated that neither DW1 nor DW2 knew him. However, she showed from the cross-examination of DW1, that according to him, he knew the accused since

last 20 years. Therefore, according to learned A.P.P., the defence evidence was not at all reliable and hence rightly rejected by the lower Courts. She, therefore, submitted that there is no substance in the present revision application and, hence, the same be dismissed.

11. I have minutely and carefully gone through the original record and proceedings in Criminal Case No. 267/S/06/E as also the impugned judgment and order of the Sessions Court and that of the JMFC.

12. Firstly, coming to the Miscellaneous Application filed by the petitioner for narco analysis test, I am of the view that the same has been belatedly filed only to delay the proceedings and, there is absolutely no substance in the same. As has been rightly pointed out by the learned A.P.P., the accused had earlier filed a similar application for narco analysis test, but the same was withdrawn by the applicant. Merely because the accused himself willingly wants to undergo narco analysis test, that does not mean that the same should be allowed. The question is why he did not opt for undergoing such test at the time of investigation or at least at the time when the case was before the learned JMFC. Since there is ample evidence on record regarding the identity of the accused as driver, the question of allowing the said application for narco analysis test after 7 years from the date of the accident, does not arise. In the facts and circumstances of this case, the Judgment of the Apex Court in the case of *œSelvi?* (supra) cannot come to the assistance of the accused. Hence, at the outset, the said Stamp Number (Application) No. 910 of 2014 stands rejected.

13. PW4-Mecky Fernandes, the wife of the deceased, deposed that on 22/04/2006, at about 3.50 p.m. she and her husband Benedito Fernandes (deceased) left their residence on their motorcycle bearing No. GA-02/H-4069 to go towards Margao and when they reached at Nova Bazaar at about 4.00 p.m., one blue coloured Pick-up bearing registration No. GA-02/D-5362 came from opposite direction at a fast speed towards their side and dashed against their motorcycle, when they were on left hand side of the road. She stated that the Pickup gave dash to their motorcycle, as a result of which, her husband fell down and she also fell down. PW4 deposed that her husband was unconscious and

blood was oozing from his head and she got up and went to see her husband at the place where he had fallen down and at that time, the driver of the Pick-up alighted from the Pick-up and came near them. She deposed that there was one policeman present at the spot and when the said policeman asked the name of the driver, the said driver of the Pick-up disclosed his name as Domnic Luis. She stated that thereafter, the said policeman stopped one passing vehicle and shifted her husband to Hospicio Hospital and at the said Hospital, her husband was declared dead. PW4 specifically identified the accused, who was sitting in the dock, before the learned JMFC, to be the driver of the Pick-up, who dashed their motorcycle. The correct number of the Pick-Up was GA-02/T-5362, but PW4 gave the number as GA-02/D- 5362. That would certainly not make the testimony of PW4 unreliable. The omission in the police statement of PW4, as pointed out by the learned Counsel appearing on behalf of the petitioner, was regarding the said policeman asking the name of the accused and the accused disclosing his name as Domnic Luis. The said statement was not found recorded in her police statement. No doubt, the Investigating Officer, namely, P.S.I., Subhash Phaldessai (PW9) confirmed that PW4 did not state to him that the policeman had asked the name of the accused and he had disclosed the same as Domnic Luis. However, since PW4 specifically identified the accused as driver, merely because there was some omission about the policeman asking his name, the same need not render the testimony of PW4 unreliable. I do not find any major discrepancy in the testimony of PW4 to render it unreliable. In fact, the testimony of PW4 was most natural and was not shaken in the cross-examination, on material aspect. Since according to PW4, they were proceeding from the left side of the road and the accused came with the Pick-Up, from opposite direction, on their side and gave dash to the Motorcycle, the rashness on the part of the accused was duly proved. The contention of learned Counsel for the accused that the testimony of PW4 did not bring forth rashness or negligence on the part of the accused is not correct.

14. PW6, Simon Barreto was an eye witness to the said accident. He deposed that he was riding his Vespa Scooter and proceeding from Curtorim towards Macazana on 27/04/2006 when he saw the Pick-up proceeding ahead of him. He stated that on reaching Nova Bazaar, Macazana, the driver of the Pickup lost control, went to the extreme right side and dashed against the oncoming motorcycle, due to which,

the rider and pillion rider fell on the road and the rider had lost consciousness and was bleeding from the head. He stated that he rendered help to the said rider and even the accused himself rendered help and disclosed his name as Domnic Luis. He submitted that there was one more person with him, namely Peter D'Costa. No doubt, PW6 gave wrong date of the accident by saying that the same took place on 27/04/2006. Actually, the accident had taken place on 22/04/2006. However, the deposition of this witness was recorded on 08/05/2008 and it cannot be expected that he would remember the exact date after about two years. Such mistakes do occur in case of human beings. All do not have sharp memory. PW6 specifically identified the accused, who was sitting in the dock, in the Court of the learned JMFC as the driver of the said Pick-up. According to PW6, the road at the spot of accident was straight road. PW6 knew the accused even prior to the accident by name, since the accused is from his village. The said statement of PW6 has not been challenged. In fact, on account of the deposition of PW6, it was firmly establishes that the accused was the driver of the said Pick-up. The need for test identification parade, did not arise and the question of allowing narco analysis test does not arise. The testimony of PW6 was not shaken in the cross-examination and in fact, he was an independent person having no reason to falsely implicate the accused in the case. There was one more independent witness to the same accident, namely Peter D'Costa, referred to by PW6. Mr. Peter D'Costa has been examined as PW11.

15. PW11 deposed that he had seen the accident on 22/04/2006 at about 4.00 p.m. and he was proceeding on his Scooter from Macazana to Chandor and at that time, one motorcycle was proceeding ahead of him. PW11 deposed that one Pick-up came from behind him, overtook him and went ahead at a fast speed. He deposed that from the opposite side, one motorcycle was coming, which was of make 'Suzuki' and the Pick-up went on its wrong side i.e. to its right hand side and gave dash to the said oncoming motorcycle on which there was rider and pillion rider. He stated that the rider of the motorcycle was smashed in the accident. He further deposed that he stopped his motorcycle and waited at the side and injured was thereafter shifted. He deposed that the right hand side of the Pick-up dashed the motor cycle i.e. headlight and mudguard of the motorcycle. In his cross-examination, PW11 deposed that one person by name Simon (PW6) was present

at the spot.

16. Besides the above two eye witnesses, a policeman by name Narayan Padkar, the Police Constable buckle no. 46961 (PW2) also witnessed the accident. PW2 deposed that on 22/04/2006 at 16.00 p.m. hours, at Nova Bazaar, Macazana, there was an accident between the Pick-up and motorcycle. He stated that the Pick-up was bearing No. GA-02-/T-5362, whereas the motorcycle was bearing No. GA-02/H-4069. He deposed that he was on patrolling duty at that time on official motorcycle in that area. He saw the Pick-up coming with speed from Curtorim side towards Macazana and at the curve, it gave dash to the motorcycle which was proceeding from opposite direction. PW2 deposed that the motorcycle was on its left hand side and on account of the dash, the motorcycle fell on the road and the rider as well as the pillion rider, who was a lady, both fell down and the rider suffered bleeding injury to his head and to his right leg. PW2 specifically stated that the accused was driving the Pick-up and he asked the said driver his name and the accused disclosed his name as Domnic Luis, resident of Curtorim. PW2 deposed that one vehicle was passing that side and he stopped the same and with that vehicle, the injured was taken to P.H.C., Curtorim, and from there to Hospicio Hospital, Margao, where the injured was declared dead. At the relevant time, no offence was registered against the accused and hence, the question of PW2, a Police Constable taking the accused in custody did not arise. PW2 had shown the spot of accident to the Investigating Officer who conducted panchanama of scene of the accident and sketch.

17. The evidence of PW2, PW4, PW6, and PW11 sufficiently established the rashness and negligence on the part of the accused in driving the Pick-up and causing accident which resulted in grievous injuries to the deceased, which in turn resulted in his death. The death was a direct consequence of the rash and negligent act of the accused.

18. PW1, Shri Pedru Fernandes acted as one of the panch witnesses for the panchanama of scene of accident and sketch, which were drawn on 22/04/2006 at Nova Bazaar, Macazana. PW1 saw one Pick-up bearing No. GA-02/T-5362 and a motorcycle bearing No. GA-02/H-4069 at the spot. According to PW1,

measurements were taken at the spot from different points with the help of tape. He stated that the police showed to them the accident spot. I do not see anything wrong in the above statement of PW1 because the spot was actually shown by a policeman i.e. by PW2. PW1, then, gave various distances. He stated that the motorcycle had fallen on the katcha portion of the road and the damage to the Pick-up was on the right hand driver's side guard and the headlight, whereas the front portion of the motorcycle was damaged and even the front wheel was detached. PW1 deposed that a sketch was drawn at the spot. Exhibit 9 colly are the said panchanama and the sketch which bear signature of PW1. In his cross-examination, PW1 deposed that the accident spot was about 1.80 metres from the right edge of the road, if one goes towards Macazana. In the sketch, the accident spot is clearly shown about 1.90 metres from the right hand side edge of the road, if one goes to Macazana. Thus, the panchanama of the scene of accident and sketch support the version given by the eye witnesses to the effect that the Pick-up came to the wrong side and gave dash to the motorcycle which came from opposite direction. The contention of the learned Counsel for the accused that the point of impact was not proved is not correct.

19. PW3, Shri Sham Prasad Keni was the owner of the said Alwyn Nissan Pick-up bearing registration No. GA-02/T-5362. According to him, he had given the said Pick-up for driving purposes to the accused Domnic Luis and the accused used to pay rental charges to him.

20. PW5, Shri Prakash Kholkar, the Motor Vehicle Inspector examined the motorcycle No. GA-02/H-4069 on 28/04/2006 and found that the turning handle was bent, shock absorber was bent, brake, clutch, levers were broken, front wheel rim was twisted, rear view mirror, headlight assembly were broken and all meters on the instruments' panel board were totally damaged. He also inspected the Pick-up bearing No. GA-02/T-5362 which was Mahindra Nissar Pick-up. The damages noted by him were: front right side headlight glass broken, front right side dome dented, front right side indicator light cracked, bumper bent at the right side and guard pipe which was at the head of front show grill was bent at the right side. The accident report forms are at exhibit 17/C colly. Considering the evidence of PW5 and his reports, it can be understood that the right hand side portion of the Pick-up

had given dash to the front of the motorcycle. Therefore, the evidence of PW5 and the accident report forms at exhibit 17/C colly also support the version of eye witnesses.

21. PW7, Shri Agnelo D'Costa acted as one of the panch witnesses for the inquest panchanama conducted on the dead body of the deceased Benedito Fernandes. The inquest panchanama is at exhibit 22/C. Memorandum of Autopsy in respect of the deceased showed that he died due to multiple injuries to head, chest and limbs consequent to blunt force impact in road traffic accident. The injuries described in the Memorandum of Autopsy and the cause of death are consistent with the version given by the eye witnesses.

22. PW8, Shri Kamlakar Kotarkar, the then Head Constable was attached to Maina Curtorim Police Station and he conducted the panchanama of scene of accident and sketch, which are at Exhibit 9-colly. He deposed that the accident was registered under M.V. No.76/2006 by P.S.I. S. H. F. Dessai. He deposed that the spot of accident was showed by Constable Narayan Padkar (PW2). PW8 then recorded the statements of said Narayan Padkar and one Lucy Vaz. PW8 lodged complaint on behalf of the State which is at Exhibit 24/C.

23. PW10, Ms. Lucy Vaz deposed that about 2 to 3 years back in the month of April at around 2 to 3 p.m., an accident had taken place on the road proceeding from Macazana to Curtorim which is in front of her house. She deposed that the accident was between one motor bike and one Pick-up. She stated that the Pick-up was proceeding towards Macazana side and the motorcycle had fallen down on the centre of the road facing Margao side and the injured had fallen on the left hand side of the road, if one faces Curtorim. She deposed that she helped the injured to be shifted to the car of one of the persons. She deposed that the motorcycle had lady pillion rider. Though PW10 had seen the driver at the spot, however, she could not identify him in the Court. This witness was cross-examined by the learned Assistant Public Prosecutor on the ground that she deviated from the police statement.

24. PW9 P.S.I. Subhash H. Phaldessai registered the complaint lodged by PW8, recorded the statements of Simon Barreto, Sham Prasad Keni and Mecky

Fernandes, got the vehicles inspected and collected accident report forms, arrested the accused and filed the charge sheet against the accused after completing the investigation.

25. The accused in his statement under Section 313 of Cr.P.C. did not state that the said Pick-up was actually being driven by his brother. As has been rightly pointed out by the learned A.P.P., the witnesses examined by the accused, namely DW1, Shri Dionisio Sardinha and DW2, Shri Olavo D'Silva did not corroborate each other on material aspects. According to DW1, the rider of the motorcycle was busy talking to the pillion rider and on a turn, the motorcycle came in the middle of the road towards the Pick-up and dashed against the same, but according to DW2, the rider of the motorcycle was looking behind and became nervous and thereafter, dashed the tempo on the middle of the road. According to DW1 as well as DW2, the motorcycle had dashed on the left hand side bumper of the Pickup. However, a perusal of the accident report forms produced by PW5 reveals that there were no damages to the left hand side bumper of the Pick-up. DW3, the accused himself falsely stated that his brother Joe Luis was driving the Pick-up. What is relevant is that according to DW3, DW1 and DW2 did not know him prior to the accident. However, a perusal of the cross-examination of DW1 reveals that he knew the accused from the time of the accident, whereas the cross-examination of DW2 reveals that he knew the accused for last 20 years, approximately. It can certainly be stated that DW1, DW2 and DW3 are false witnesses and they cannot at all be relied upon.

26. In all the circumstances above, the learned JMFC rightly held that the accident occurred due to the rash and negligent driving of the Pick-up by the accused. Learned Sessions Court has also rightly confirmed the judgment and order passed by the learned JMFC. There is no error apparent on record and the finding of the lower Courts cannot be interfered with.

27. In the case of **œDayanand Ramahaskutti?** (supra), since the accident had occurred when it was raining and considering the age of the accused and the fact that the accused was the only bread earner in the family, the sentence under Section 304-A of I.P.C. was reduced to that of two months R.I. The facts of the

above case are not applicable to the case at hand. In the case of **Puttuswamy?** (supra), the parties sought compounding of offence under Section 304-A of I.P.C. and in view of the compromise, the sentence was reduced to period of imprisonment already undergone and the fine amount was increased to Rs. 20,000/-. In the present case, the family members have refused to compromise and receive compensation even to the extent of Rs. 4,00,000/-. The above case is not applicable to the present case.

28. In Criminal Appeal No.1325 of 2012 (**Guru Basavaraj @ Benne Settappa Vs. State of Karnataka**, [2012 Cri .L. J. 4474 (S.C.)] relied upon by the learned A.P.P., the accused was convicted and sentenced for the offence under Sections 337,338 and 304-A of I.P.C. The accused was sentenced for the offence under Section 304-A of I.P.C. to undergo imprisonment for six months and to pay fine of Rs. 2000/-. It was argued by the learned Counsel for the accused that in a fitness of things, the sentence should be restricted to the period already undergone and the amount of fine could be enhanced with the stipulation that it shall be paid as compensation to the victims of the accident. The age of the accused at the time of accident which was 22 years and his marital status were highlighted as mitigating factors. Referring to various judgments, the Hon'ble Apex Court held that it has expressed its concern on imposition of adequate sentence in respect of commission of offences, regard being had to the nature of the offence and demand of the conscience of the society. The Supreme Court observed that the concern has been to impose adequate sentence for the offence punishable under Section 304-A of I.P.C. It has been held that negligence of one shatters the tranquility of the collective. When such accident occurs, it has the effect potentiality of making victims in many a layer and creating a concavity in the social fabric and the agony and anguish of the affected persons, both direct and vicarious, can have nightmarish effect. The Apex Court held that it has its impact on the society and the impact is felt more when the accidents take place quite often because of the rash driving by drunken, negligent or for that matter, adventurous drivers, who have , in a way, no concern for others. The sentence was maintained.

29. The father and the sister of the deceased were present in the Court during the course of arguments and have stated that they are not interested in receiving any kind of compensation and that they would be happy to see that the culprit is adequately punished. Considering all the circumstances of the case, in my view, the sentence of six months' imprisonment imposed by the JMFC upon the accused in respect of the offence punishable under Section 304-A of I.P.C. is just and reasonable and cannot at all be termed as harsh and exorbitant. Therefore, there is no substance in the Revision Application.

30. In the result, the Revision Application stands dismissed. However, it is made clear that the substantive sentences of imprisonment imposed upon the accused shall not run consecutively but shall run concurrently. Accused shall surrender before the learned JMFC, within a period of 30 days from today failing which the learned JMFC shall take appropriate steps to secure his presence for undergoing the sentence as imposed.

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