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Court : Karnataka

Decided On : Jan-23-2017

Judge : R.B. Budihal

Appeal No. : Criminal Revision Petition No. 21 of 2017

Appellant : Keethraj

Respondent : State of Karnataka, Represented by the S.P.P.

Judgement :

(Prayer: This Criminal Revision Petition is filed under Section 397 read with Section 401 Cr.P.C praying to set aside the judgment passed in Crl.A.No.120/2015 dated 16.11.2016 passed by the Prl. S.J., D.K., Mangaluru and also Judgment of Conviction dated 01.04.2015 passed in C.C.No.2686/2013 by the JMFC-II Court, Mangaluru and to acquit the accused/petitioner.)

1. Though this matter is coming up for admission, with the consent of learned counsel appearing for the parties, matter is taken up for final disposal.
2. This revision petition is filed being aggrieved by the judgment and order passed by the trial Court in C.C.No.2686/2013 dated 1.4.2015 and confirmed by the first appellate Court in Crl.A.No.120/2015 dated 16.11.2016.
3. Brief facts of the prosecution case are that on 28.5.2013 at about 5.15 p.m., accused being the rider of the motorcycle bearing registration No.KA-19-ED- 5911

rode the motorcycle at Mukka in Surathkal village of Mangalore Taluk near Mukka Petrol Bunk on N.H.66 in a rash and negligent manner; C.W.4 was the pillion rider at the time of accident. The accused rode the vehicle on the wrong side of the road and hit against the rider of the scooter bearing registration No.KA-19-Q-754 one Vasanth Sanil coming from opposite side. Due to this accident, scooterist Vasanth Sanil sustained grievous injuries over his head as well as other parts of the body and was shifted to Mukka hospital and he succumbed to the injuries. The accused and C.W.4 pillion rider also sustained injuries. He had no valid driving licence and insurance certificate pertaining to motorcycle at the time of accident. After investigation, the Investigating Officer has filed the charge sheet against the accused person for the said offence. Thereafter, prosecution has examined in all 7 witnesses as P.Ws.1 to 7 and got marked documents Exs.P1 to P16. On the side of defence no oral evidence was let in and only Ex.D1 was marked. After considering the oral and documentary evidence placed on record, ultimately, the trial Court has held the accused guilty for the charges leveled against him and convicted him for the said offences and imposed sentence and fine as per the order of the trial Court. Being aggrieved by the judgment and order of conviction passed by the trial Court, the accused preferred appeal before the first appellate Court and the first appellate Court after re- appreciating the materials placed on record dismissed the appeal and confirmed the judgment and order of the trial Court convicting the accused-petitioner. Hence, he is before this Court in this revision petition.

4. Heard the learned counsel for the revision petitioner-accused and also the learned HCGP for the respondent on admission and also on I.A.No.1/2017 filed seeking suspension of sentence. Perused the grounds urged in the revision petition and judgments and orders passed by the Courts below.

5. Learned counsel for the petitioner has submitted that P.Ws.1 to 4 are the interested witnesses and are known to the deceased. The accused was not riding the two wheeler vehicle on that day and was walking by the side of the road and it is the deceased himself who dashed to the accused and caused injuries to him and thereafter dashed to another vehicle and fell down and having sustained injuries died. Learned counsel submitted that these important material aspects

were not at all taken into consideration by the trial Court and it has wrongly read the evidence and wrongly proceeded to convict the accused for the said offences and the same was wrongly confirmed by the first appellate Court. Accordingly, submitted that matter requires consideration in this revision petition and the same is to be admitted.

6. Per-contra, learned HCGP has submitted that totally 7 witnesses have been examined in this case and P.Ws.1 and 2 are the eyewitnesses to the accident who have consistently deposed before the trial Court that the accused who was riding the two wheeler came on the wrong side and dashed to the two wheeler vehicle of the deceased and thereby caused the accident, due to which, deceased expired. He has also submitted that though C.W.4 was the pillion rider to the accused vehicle, in spite of issuing summons as well as warrant he was not traced and that prosecution has not examined C.W.4 before the Court. The trial Court as well as the first appellate Court have taken all these aspects of the matter into consideration and have rightly come to the conclusion that the accused has committed the alleged offences. There are concurrent findings of the Courts below so far as the factual aspects are concerned. Accordingly, he has submitted to dismiss the revision petition.

7. The judgment of the trial Court shows that P.Ws.1 and 2 are the eyewitnesses to the incident and they have consistently deposed about the manner in which the accident has taken place. Their evidence has been discussed in detail by the trial Court. The trial Court has also referred to the spot mahazar and sketch. These two documents apart from the oral evidence of P.Ws.1 and 2 supports the case of the prosecution that the incident has taken place when the accused has gone to the right side of the road and dashed to the scooter of the deceased. Another important aspect is, in the said accident, the accused as well as the pillion rider have also sustained injuries. When it is the contention of the accused that he was not riding the two wheeler and that he was walking by the side of the road and it is the deceased who rode the vehicle in a rash and negligent manner and dashed to the accused and to another vehicle, but which is that another vehicle is not at all explained by the accused during his defence. The evidence of the Investigating Officer and P.W.6, the Motor Vehicle Inspector shows that the vehicle which

caused the accident was not having any mechanical defect. All these aspects were appreciated by the trial Court and it has come to the conclusion that the defence of the accused cannot be accepted. Accordingly, it has held the accused guilty of the alleged offences.

8. Even the first appellate Court has re-appreciated the evidence on record and has come to the conclusion that no illegality has been committed by the trial Court in coming to such conclusion. Accordingly, it has dismissed the appeal confirming the judgment and order of the trial Court. So far as the factual aspects are concerned, there are concurrent findings of the Courts below. I do not find any illegality in the judgments of the Courts below nor any perverse or capricious view taken in coming to such conclusion. There are no valid and justifiable grounds for this Court to interfere into the judgments of the Courts below. There is no merit in this revision petition.

9. Accordingly, revision petition is dismissed. In view of the dismissal of the petition, I.A.No.1/2017 does not survive for consideration. Accordingly, it is disposed of.

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