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Jahur Mia Vs. the State

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Court : Guwahati

Decided On : Apr-27-1953

Judge : Sarjoo Prosad, C.J.

Appellant : Jahur Mia

Respondent : The State

Judgement :

Sarjoo Prosad, C.J.

1. I was reluctant to Interfere with the order of sentence and conviction passed in the present case. The petitioner has been convicted under Sections 279 and 304A, Indian Penal Code and sentenced to one year's rigorous imprisonment with a fine of Rs. 1,000/- or in default, another period of six months under the latter section, but there was no separate sentence given under the former. On appeal, the learned Sessions Judge has confirmed the order of sentence and conviction passed against him, I find, however, that in the circumstances of this case it is difficult to sustain the conviction under Section 304A, Indian Penal Code.

2. It has been repeatedly held that in order to impose criminal liability under Section 304A of the Code, it is essential to prove that death must have been the direct result of the rash arid negligent act of the accused. The act of the accused must be the approximate and the efficient cause without the intervention of any other circumstance. It must We causa causans as it is called, and not merely the

cause sine qua non. Therefore, it had to be seen on the evidence Whether the death of the two men concerned as a result of the accident in the present case was directly due or attributable to the rash and negligent act of the accused petitioner. It is to be noticed that some of the occupants of the truck who remained in the truck escaped with minor injuries; but the prosecution case is that the two persons who died had actually jumped out of the truck almost simultaneously on the collision of the truck with the Railway engine. The Magistrate, when dealing with the point, was doubtful, on the evidence, as to whether the two persons who died did actually jump out of the truck or they were merely thrown out as a result of the collision and thereby sustained those fatal injuries. But he finally wound up the discussion with the Observation that whatever might be the case, the death of the persons was due to the accident which occurred as a result of the rash and negligent act of the accused. Now this finding was not adequate. He should have found definitely Whether on account of the collision they were actually thrown out and received the injuries Which resulted in their death. The learned Sessions Judge in appeal seems to be also indefinite On that point, but he assumes in favour of the defence that the two persons had jumped out of the truck as the truck collided with the engine of the train and its own engine had been smashed. But the learned Sessions Judge opines that the persons who jumped out nonetheless received numerous injuries which resulted in their instantaneous death, and therefore, there could be no doubt that in their endeavour to save themselves from an imminent danger caused by the collision on account of the action of the deceased, they received the fatal injuries. Now, whether they received the fatal Injuries on account of having jumped out of the truck or because of the collision, it is difficult to say on the findings. At any rate, it appears that the persons who remained in the truck had not received such severe injuries on their persons. In those circumstances, I feel constrained to give the benefit of doubt to the petitioner under Section 304A, Indian Penal Code.

I am, however, Inclined to think that he should receive the maximum sentence permissible under the law under Section 279, Indian Penal, Code. The conviction on that point has not been challenged before me and, in my opinion, rightly so. The petitioner is, therefore, under Section 279, Indian Penal Code sentenced to six months' rigorous imprisonment in addition to a fine of Rs. 1,000/- already

imposed upon him. In default of payment of the fine, he should suffer rigorous imprisonment for another period of six weeks. The application la allowed to this extent and the conviction and sentence modified. In other respects, the Rule is discharged.

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