

State Vs. G. Radhakrishna

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Court : Karnataka

Decided On : Dec-10-1993

Reported in : 1994(2)ALT(Cri)218; ILR1994KAR497; 1994(2)KarLJ174

Judge : D.P. Hiremath and ;M.M. Mirdhe, JJ.

Acts : [Penal Code \(IPC\), 1860](#) - Sections 279, 337, 338 and 304A

Appeal No. : Crl. Appeal No. 574 of 1989

Appellant : State

Respondent : G. Radhakrishna

Advocate for Def. : M.T. Nanaiah, Adv.

Advocate for Pet/Ap. : S.R. Bannurmath, Addl. S.P.P.

Disposition : Appeal dismissed

Judgement :

Hiremath, J

1. The accused - respondent was prosecuted under Sections 279, 337, 338 and 304A IPC. The charge against him was that on 14.12.1987 at about 6.50 a.m. on VISL Double Road at Bhadravathi, the respondent - accused was the driver of the jeep MES 8882 owned by a certain Mysore Paper Mills, drove it in a rash and

negligent manner, hit the autorickshaw CTS 7579 and caused the death of the driver of the rickshaw and caused simple and grievous hurt to the passengers in it. Trial Court acquitted the accused holding that no rashness or negligence on the part of the accused was proved. In challenging this Judgment of acquittal, it is contended on behalf of the State by the learned Additional State Public Prosecutor that the Trial Court ought to have believed the evidence of the injured witnesses though no other eye witness has been examined. Even if independent corroboration was required, it was provided by Police Constable -P.W.5 on whose complaint the case came to be registered. We have reappraised the evidence.

2. Though the injured witnesses have attributed negligence to the driver of the jeep, we have considered the evidence with regard to the spot of accident. If only a sketch was provided by the Investigating Officer, it could have been much easier to understand what exactly is the prosecution story. We have reconstructed the incident with the help of the evidence adduced and the recitals in the panchanama of the spot. It is undisputed that the accident occurred on the Western side of the Double road running South-North. The jeep was proceeding from South towards North. It is also stated that on the Western side is the VISL Guest House. The auto came from that Guest House side and perhaps wanted to enter the Eastern road running North-South to keep on its side on this Double road. After the impact, the positions of the two vehicles give a tell tale story. The autorickshaw was damaged on its front side and even the right side handle and driver's seat were damaged. After impact, the autorickshaw appears to have turned to the North and stood facing North. The jeep after the impact was facing West. This obviously explains how the incident must have occurred. It gives an indication that the autorickshaw wanted to cross this South-North road to enter North-South road and admittedly this being a Double road must be considered to be the main road and the autorickshaw driver while entering the main road ought to have taken care to see that the road was clear for him to cross. Rules of the road require that vehicles while crossing should first give way to the vehicles coming from the right side. Naturally it was imperative on the part of the driver of the autorickshaw to stop at the entrance of this South-North road, look for vehicles coming from his right side and then cross it to go to his correct side. Many a time, the vehicle drivers do not observe these elementary rules of the road thus putting themselves or the

passengers to the risk of being met with accident. On reconstruction of the entire situation at the time of the impact, this conclusion becomes inevitable. It cannot be said that the prosecution has succeeded in establishing the guilt of the jeep driver conclusively as under normal circumstances he could not have anticipated the rickshaw to enter on the main road without observing the rules of the road. We find no grounds to interfere in the Judgment of acquittal. Appeal fails and is dismissed.

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