

K.M. Subramani Vs. State of A.P.

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Court : Andhra Pradesh

Decided On : Apr-24-2003

Reported in : 2003(2)ALD(Cri)44; 2003(2)ALT(Cri)350; 2003CriLJ3526

Judge : S.R.K. Prasad, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 279 and 318

Appeal No. : Criminal Revn. Case No. 531 of 2001

Appellant : K.M. Subramani

Respondent : State of A.P.

Advocate for Def. : Public Prosecutor

Advocate for Pet/Ap. : T. Muralidhar Reddy, Adv.

Judgement :

ORDER

S.R.K. Prasad, J.

1. This Criminal Revision Case is directed against the judgment dated 11-5-2001 in Criminal Appeal No. 12 of 2000 on the file of the IV Additional Sessions Judge, Kurnool, confirming the conviction of the revision petitioner-accused for the offence under Section 304-A, IPC and sentence of R.I. for one year and to pay a

fine of Rs. 5000/-, in default to undergo S.I. for three months imposed upon him by the learned Judicial Magistrate of First Class, Special Mobile Court, Kurnool in C.C. No. 123 of 1999.

2. It is alleged that the revision petitioner-accused was the driver of the lorry bearing Registration No. TDS 7808 and on the date of accident i.e. on 21-6-1997 at about 5 p.m. he drove the lorry in the busy locality called Birla traffic junction in Kurnool town in a rash and negligent manner and dashed against two persons viz., Harijana Meesala Krishna and C. Venkata Krishna Kumar who were going on a scooter towards B. Camp side and caused their death. Hence he was charge-sheeted for the offence under Section 304-A, IPC.

3. During trial, in support of its case, the prosecution examined eleven witness and got marked Ex. P1 to Ex. P12. Upon consideration of both oral and documentary evidence, the Trial Court found the revision petitioner-accused guilty of the offence under Section 304-A, IPC and accordingly convicted him for the said offence and sentenced him to undergo R.I. for one year and to pay a fine of Rs. 5000/- in default to undergo S.I. for three months. Aggrieved by the said conviction and sentences, the revision petitioner-accused carried the matter in appeal before the Sessions Court in Criminal Appeal No. 12 of 2000. The learned IV additional Sessions Judge, Kurnool by his judgment dated 11-5-2001 dismissed the appeal confirming the conviction and sentences recorded by the trial Court against the revision petitioner-accused. Aggrieved by the same, the present Revision Case has been filed.

4. The main contention of the learned counsel appearing for the revision petitioner-accused is that the revision petitioner-accused is a Tamilian and that he does not understand the proceedings of the Court and that the trial Court has failed to explain to him the evidence or the substance of the accusations to him in his own language by having a Translator. My attention has also been drawn by the learned counsel for the revision petitioner-accused to Sections 318 and 279, Cr. P.C.

5. The learned Public Prosecutor is unable to throw any light on this aspect.

6. I have perused the entire record of this case. The papers relating to the examination of accused under Section 251, Cr. P.C. as well under Section 313, Cr. P.C. contain the signature of the revision petitioner-accused in Tamil. But the answers given by him were written in Telugu language. It has not been mentioned in the judgment of the trial Court that as to whether the questions were translated and explained to the revision petitioner-accused in his own language i.e. in Tamil so as to make him understand. It is a common procedure to obtain signatures of the accused beneath the answers given for the question during examination of accused under Sections 313 as well as under Section 251, Cr. P.C. At this stage, it is expedient to have a look at Section 318, Cr. P.C. which reads as under :

Section 318 : Procedure where accused does not understand proceedings :-- If the accused, though not of unsound mind, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial and, in the case of a Court other than a High Court, if such proceedings result, in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such orders as it thinks fit'.

7. From the above provisions of Section 318, Cr. P.C. it is clear that when a person is unable to understand the proceedings, the Court may proceed with the inquiry or trial and it is mandatory for the Court below to submit a report to the High Court with a report of the circumstances of the case, and thereupon the High Court has to pass orders.

Section 279 Cr. P.C. read as under :

Interpretation of evidence to accused or his pleader.

(1) Whenever any evidence is given in a language not understood by the accused, and he is present in Court in person, it shall be interpreted to him in open Court in a language understood by him;

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to

such pleader in that language:

(3) When documents are put for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

8. Section 279, Cr. P.C. contemplates that whenever any evidence is given in a language not understood by the accused, and he is present in Court in person, it has to be interpreted to him in open Court in a language understood by him. In the present case, it is not known as to whether the learned Magistrate had explained the evidence or the questions either in Telugu or in Tamil. These provisions are intended only to safeguard the interest of those accused persons who do not understand the language in which the proceedings of the Court are being conducted. Obviously, the proceedings in the Courts are conducted in two languages viz. in Telugu and sometimes in English and the judgment of the Court will be in English language. It is very difficult for an illiterate person to understand the proceedings of the Court, because it is conducted in different languages. Thus, I am of the considered view that in the present case, the proceedings of the Court have not been properly explained to the revision petitioner-accused by the Trial Court in the language understood by him. Perhaps the learned Magistrate might have taken a short-cut method by not reporting the matter to the High Court under the provisions of Section 318, Cr. P.C. It is observed by this Court that in majority of the cases, the trial Courts are not following the said procedure prescribed under the Statute. When a person is being prosecuted and his individual liberty is at stake, it is the bounden duty of the Magistrate to explain everything in the language understood by the accused, so that he could raise his pleas and give proper assistance and guidance to his counsel. No doubt, the revision petitioner-accused has not taken this plea before this Court at the revision stage. This Court would have rejected this plea, had there been no substance. But a perusal of the record shows that the answers of the accused are recorded in Telugu and not in the language of the accused i.e. in Tamil and the signatures of the accused were obtained in Tamil language. This would only go to show that miscarriage of justice has occurred, as the proceedings are conducted in the language, which is not understood by the accused. In that view of the matter, I find that the entire proceedings are liable to be set aside and de novo trial has to be ordered in this

case.

9. Accordingly, the conviction and sentences recorded by the Trial Court and as confirmed by the appellate Court against the revision petitioner-accused are hereby set aside and the trial Court is directed to conduct a de novo trial from the stage of examination of accused under Section 251, Cr. P.C. and the entire proceedings shall be explained to him in the language understood by the accused. The Magistrate shall submit report to the High Court in detail soon after completion of the trial. Accordingly, the Magistrate is directed to restore the case on his file and dispose of the same in accordance with law and in the light of the observations made by me supra. Since the conviction and sentence passed against the revision petitioner-accused are set aside, there is no need for me to advert to the other contentions advanced by the learned counsel for the revision petitioner-accused regarding appreciation of evidence etc.

10. The Criminal Revision Case is, accordingly, ordered.

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