

Om Pratap Singh Vs. State

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Court : Allahabad

Decided On : Feb-03-1995

Reported in : 1995CriLJ3887

Judge : O.P. Pradhan, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 279 and 304A; Code of Criminal Procedure (CrPC) , 1974 - Sections 397 and 401

Appeal No. : Criminal Revision No. 593 of 1983

Appellant : Om Pratap Singh

Respondent : State

Disposition : Revision dismissed

Judgement :

ORDER

O.P. Pradhan, J.

1. This revision by a convict is directed against the judgment and order dated 27-9-1983, passed by IV Additional Sessions Judge, Rae Bareli, dismissing the Criminal Appeal No. 136 of 1983 and confirming the order of conviction and sentence, passed by Judicial Magistrate, Rae Bareli under Sections 279 and 304A of the Indian Penal Code.

2. Briefly speaking, the facts giving rise to this revision are that a little before sunset on 13-1-1980, the victim Krishna Kumar was going on his cycle on the road between Rabpura bridge and Sabzigaon within the Circle of Police-Station Khiron, district Rae Bareli. A Roadways bus bearing No. UTD 7071, driven by the revisionist Om Pratap Singh came from behind and hit Krishna Kumar, causing his death on the spot. The written-report of this incident was lodged by Nand Kumar (brother of the victim) at P. S. Khiron at 9.30 a.m. on the next day, i.e. 14-1-1980. The investigation followed and the revisionist was put on trial in connection with offences under Sections 279 and 304A, I.P.C. The learned Magistrate after considering the evidence produced before him, came to find the revisionist guilty of the offences under Sections 279 and 304A, I.P.C. and sentenced him to undergo three months' R.I. under the first count and six months' R.I. under the second count, both sentences to run concurrently. Aggrieved by this decision of the learned Magistrate, an appeal was carried by the convict Om Pratap Singh to the Court of Session and this appeal gave rise to Criminal Appeal No. 136 of 1983. This appeal was heard and dismissed on 27-9-1983 by IV Additional Sessions Judge, Rae Bareli. Not satisfied with this order of dismissal passed in his appeal, Om Pratap Singh preferred revision to this Court.

3. I have heard the learned counsel for the revisionist as also the learned Government Advocate and perused the record.

4. The revisional power of this Court under Sections 397 and 401, Cr.P.C. is a kind of supervisory jurisdiction in order to prevent miscarriage of justice arising from the mis-conception of law or irregularity of procedure committed by the subordinate Courts. These two Sections do not confer unfettered jurisdiction on this Court for reappraisal of evidence. In fact, the revisional power of this Court is to see that justice is done in accordance with the recognised rules of criminal jurisprudence and the subordinate Courts do not exceed their jurisdiction or abuse their powers vested in them under the Code of Criminal Procedure.

5. A close scrutiny of the judgments given by the learned Magistrate and learned Additional Sessions Judge leads towards an irresistible conclusion that the finding of guilty recorded against the revisionist is based on analytical discussion of oral

and documentary evidence on record. Both the Courts have given cogent and convincing reasons to arrive at the conclusion that the victim Krishna Kumar was hit by the aforesaid Roadways Bus, driven by the revisionist Om Pratap Singh and that the death of Krishna Kumar was caused instantaneously as a result of rash and negligent act of driving the said Bus on the part of revisionist Om Pratap Singh.

6. It is clearly borne out from the evidence on record that the cycle on which the deceased Krishna Kumar was riding was carried away by the speeding bus to a distance of about 100 yards ahead of the place where the Bus had hit the victim Krishna Kumar. It is also in evidence that the driver Om Pratap Singh stopped the bus at a distance of about 100 yards and disentangled the cycle from the bus. The eye-witnesses had enough opportunity to see and recognise the driver of the bus who was also living in the same Circle of Police Station Khiron. It appears from the material placed on record that the impact of the bus was so severe that the victim Krishna Kumar died on spot and the driver Om Pratap Singh could not control the speed of the bus so much so that the bus came to stop about 100 yards ahead of the place where it had hit the victim. It clearly indicates that he was driving the bus rashly and negligently. It is also clearly borne out from the evidence on record that the bus came from behind and the victim Krishna Kumar was going on his cycle on the left side of the road. The material on record does not bear out that the victim Krishna Kumar came on the road all of a sudden and thus contributed to the cause of accident. No such suggestion has either been advanced on behalf of the revisionist during the cross-examination of eye-witnesses.

7. The defence of accused-revisionist is of whole-sole denial and he pleaded his false implication on account of enmity. However, there is no iota of evidence to indicate that the revisionist was falsely implicated in this case on account of enmity, pleaded by him.

8. Having carefully considered the material and circumstances as also the broad probabilities of the case, I am -- of the firm opinion that the concurrent finding of guilt recorded by the Courts below is neither infirm nor perverse. In any case, it could not be shown that there was any mis-conception of law or irregularity of

procedure committed by the lower Courts. The order of conviction and sentence does not suffer from any illegality or impropriety either. The revisionist who was a driver of the Roadways Bus, in question, is responsible for the instantaneous death of the victim Krishna Kumar as a result of his rash and negligent driving of the Bus. Therefore, the sentence of six months' R.I. on the count under Section 304A, I.P.C. cannot be said to be harsh or severe. Likewise the sentence of three months' R.I. under Section 279, I.P.C. cannot also be said to be excessive. There is no merit in this revision which is liable to be dismissed.

9. In the result, this revision is hereby dismissed. The revisionist is on bail granted by this Court. He will surrender forthwith and serve out the sentences, awarded to him by the lower Courts.

10. Let the records of the Courts below be sent back within fifteen days positively.

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