

Raj Pal Vs. State

Raj Pal Vs. State

SooperKanoon Citation : sooperkanoon.com/681807

Court : Delhi

Decided On : Sep-09-1991

Reported in : 1992ACJ514; 1992CriLJ1470; 1992(22)DRJ166; 1991RLR540

Judge : Jaspal Singh, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 304A

Appeal No. : Criminal Rev. 251 of 1979

Appellant : Raj Pal

Respondent : State

Advocate for Pet/Ap. : S.S. Palta, Adv

Judgement :

ORDER

1. Notradamus says world will end in 1997. For Gopal Dass and Bhagwani Devi at least, it ended on June 4, 1976 at about 8.30 a.m. on Boulevard Road near Sabzi Mandi. Their lives were cut short by a DTC bus (DLP 672) being driven by Raj Pal. It hit a three-wheel scooter coming from the opposite side. Gopal Dass was its driver while Bhagwani Devi a passenger. The scooter had yet another passenger. His name was A. K. Bhatia. He was lucky - in the sense that he escaped death though at the expense of grievous injuries. Who knows he may have a laugh at Notradamus too. But, coming back to the case, the errant bus driver Raj Pal was

arrested at the spot, and later tried and convicted by Mr. Prem Kumar, Metropolitan Magistrate. The conviction was under sections 304A and 338 of the Indian Penal Code. While under section 304A he was awarded rigorous imprisonment for eighteen months and a fine of Rs. 2000/-, the sentences imposed under Section 338 was four months' rigorous imprisonment besides a fine of Rs. 500/-. In default of payment of fines appropriate sentences of imprisonment were also imposed.

2. Aggrieved by the judgment of conviction and the order of sentence, an appeal was preferred but with success only to the extent that both the sentences of imprisonment were ordered to run concurrently. Rajpal, however, still finds himself dissatisfied. Hence this revision petition.

3. That the accident was caused by the rash or negligent driving of the petitioner was not the central issue before me. The evidence comprising particularly of the statement of P.W. Sardar Singh proves it. He was the eye-witness. While the Inspection Report Ex. P.W. 6/A shows that the bus had no mechanical defect, the site plan Exhibit P.W. 12/B and the photographs Ex. P1 to P9 bear testimony to the fact that it had gone towards the extreme of the right side of the road and that too without any proven justification. And, it was because of this that the learned Counsel for the petitioner prayed only for the benefit of probation or leniency in the matter of sentence. And it was this which was the central theme of the arguments advanced.

4. Should the petitioner be given the benefit of probation Reference in this connection was made to Aitha Chander Rao v. State of Andhra Pradesh, But then it was a case where there was some element of contributory negligence inasmuch as even the deceased was not beyond fault. However, there is no such element discernible in the present case. With respect, it has rightly been held by Bahri, J. of this Court in Abdul Hameed v. State (Criminal Revision No. 41 of 1990 : 1990 Cri LJ 102 that 'facts of the case have to be seen in order to decide whether probationary benefits should be given or not'. In the said case the bus driver by his rash or negligent driving had caused the death of one person and grievous injuries to another and had also caused the death of an animal. He was not given the

benefit of probation. In the present case also the petitioner who gave his age as 30 years in his statement under section 313 of the Code of Criminal Procedure, drove the bus not only at a great speed but even towards the extreme of the wrong side on a road known for heavy traffic and hit the three wheel scooter coming from the opposite side resulting in the death of two and grievous injuries to the third. He was thus Death in berserk locomotion. Probation, in such cases cannot just be the passe - partout. Such a benefit in such like cases will make Delhi roads a roulette with death. True, in some cases under section 304A some High Courts have extended the benefit of probation. But then every case is an island unto itself. In a case like this grant of probation would be a grant of license to kill.

5. It was submitted that imposition of fine only could also meet the ends of justice. In answer to it, I would feel content to refer to State of Karnataka v. Krishna, : 1987 CriLJ776 , wherein on conviction under section 304A, the sentence of fine only was imposed by the trial Court and the High Court had refused to enhance sentence. The Supreme Court was 'constrained' to do what the High Court 'should have done' and enhanced the sentence for the conviction under section 304A to six months' R.I. and fine of Rs. 1000/- and in default to undergo R.I. for two months. In the said case only one life was lost. I am purposely mentioning this to forestall any comment that on the point of sentence I took no clue from the judgment coming from no other but the apex Court.

6. It was last submitted that the sentence imposed was excessive, especially having regard to the fact that the petitioner was most likely to lose his job with the DTC where he is employed as a driver. He having played with fire, it scarcely lies in his mouth to complain of burnt fingers. To quote the apex Court in Rattan Singh v. State of Punjab, : 1980 CriLJ11 :

'When a life has been lost and the circumstance of driving are harsh, no compassion can be shown.'

Here not one but two lives were lost and a third was grievously hurt. The petitioner must get his desert. I see no reason to interfere.

7. The revision petition is dismissed.

8. Petition dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com