

Rame Vs. State

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Court : Delhi

Decided On : Jul-10-1990

Reported in : II(1990)ACC509

Judge : M.K. Chawla, J.

Appellant : Rame

Respondent : State

Judgement :

M.K. Chawla, J.

1. This Revision is directed against the order of the learned Addl. Sessions Judge, Delhi, dated 22-3-79 holding the accused/petitioner guilty of an offence punishable under Section 279/304-A, I.P.C. and sentencing him to undergo rigorous imprisonment for a period of six months and a fine of Rs. 500/-.

2. The facts are not in dispute. On 27th November, 1974, at about 2.30 P.M., the complainant Om Parkash Trikha along with his sister Shakuntala alias Maya Devi was going on his motorcycle on G.T. Karnal Road. He took petrol from Azadpur Petrol Pump and after seating his sister Shakuntala on the pillion seat, proceeded towards Panipat. At about that time, a truck bearing registration No. DHG 5540 driven rashly by the accused came from behind and hit his motorcycle, as a result of which both Om Parkash and his sister fell down. Smt. Shakuntala sustained

injuries on her head, while he received multiple injuries on his person. The truck stopped at some distance but the driver, in order to save himself abandoned the truck and ran away from there. Om Parkash put his sister in a taxi to take her to the hospital, but on the way, she died. Instead of taking her to the hospital, he took her to the house of her in-laws in Vijay Nagar Police was duly informed. A.S.I. Tejpal Singh reached the spot and then went to Vijay Nagar. He recorded the statement of the complainant and again went to the spot, took the vehicle into possession and completed the other formalities.

3. In his statement under Section 313 Cr. P.C., the accused admitted that on the alleged date, time and place of the accident, he was driving the truck No. DHG 5540. He, however, denied that the truck was being driven rashly and negligently or that he actually hit the motorcycle from behind or caused the death of the lady sitting on the pillion. According to him, when the motorcycle took a sharp turn to reach the road after getting the petrol, the lady sitting on the pillion seat fell down and sustained injuries. He stopped his truck just to see as to what had happened, but he was falsely implicated in this case by the persons present at the spot. He did not run away from there.

4. Both the courts below brushed aside the defense of the accused and believed the oral as well as documentary evidence produced by the prosecution on record. The accused was accordingly convicted and sentenced as stated earlier.

5. Learned Counsel for the petitioner has not challenged the order of conviction of the accused in this case as he was driving the truck in question at the time of the accident which otherwise stands proved from the prosecution evidence. His only prayer is that after a lapse of 14 years of the incident, a lenient view in the matter of sentence be taken. In support of this plea, learned Counsel pointed out that the incident took place about 15 years back when the accused was 52 years old. At present, the petitioner is suffering from acute renal failure and his condition is deteriorating day by day. If he is required to undergo rigorous imprisonment for the remaining period of his sentence, most probably, it is likely to prove fatal.

6. I have given my careful consideration on this aspect of the matter. The petitioner is about 68 years old and suffering from kidney trouble for the last 3/4

years. This ailment requires constant care and can prove fatal if timely dialysis is not provided. He has been unemployed since the date of the accident. He has already suffered imprisonment for a period of 15 days. I am convinced that in case the petitioner is directed to undergo the remaining period of sentence, he is not likely to survive. The ends of justice in my opinion, would be fully met if the order of sentence of imprisonment is reduced to the one already undergone, and the fine is enhanced from Rs. 500/- to Rs. 3,000/-. Ordered accordingly. The remaining amount of fine would be deposited within a period of 2 months from today. This amount, when deposited, would be paid to the legal heirs of the deceased, Shakuntala. In default of payment of fine, the accused/petitioner shall undergo the remaining period of his imprisonment. The Rev. Petition stands disposed of in these terms.

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