

Fiduhusen Abdulali Vs. the State

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Court : Gujarat

Decided On : Mar-09-1962

Reported in : AIR1962Guj318

Judge : V.B. Raju, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 337 and 427

Appeal No. : Criminal Revn. Appln. No. 502 of 1961

Appellant : Fiduhusen Abdulali

Respondent : The State

Advocate for Def. : B.R. Sompura, Asst. Govt. Pleader

Advocate for Pet/Ap. : K.N. Mankad, Adv.

Disposition : Revision partly allowed

Judgement :

ORDER

V.B. Raju, J.

1. The applicant was convicted under Sections 337 and 427, Indian Penal-Code, for having rashly and negligently driven his lorry on a narrow culvert and having caused hurt to a person sitting in a jeep and also for having caused damage to the

jeep car.

2. The finding of both the Courts below is that the applicant was driving his lorry at a great speed and that he ignored the signal of the jeep, although the culvert was a narrow one and although two vehicles could not pass at the same time. The finding of rashness and negligence is, therefore, one of fact, which cannot be interfered with in revision. It is, however, -contended that Section 337 could not be applicable, because hurt was not knowingly caused and that a person sitting in the jeep happened to fall and happened to receive a small abrasion as a result of the collision between the two vehicles. The word 'voluntarily' is not used in Section 337, Indian Penal Code. Collision was due to rashness and negligence of the applicant and hurt was caused as a result of the collision. The conviction under Section 337, Indian Penal Code, is, therefore, quite proper.

3. But as regards the conviction under Section 427, Indian Penal Code, the conviction is not proper, because a person is said to commit mischief under Section 425, Indian Penal Code, if he intends to cause or knows that he is likely to cause wrongful loss or damage to the public or to any person etc. The requisite mens rea of intention or knowledge is absent in this case. The conviction of the applicant under Section 427, Indian Penal Code and the sentence of fine of Rs. 200/- imposed under that section are, therefore, set aside. This fine, if paid, should be refunded. The conviction of the applicant under Section 337, Indian Penal Code and the sentence of fine of Rs. 100/- in default one month's simple imprisonment imposed under that section are confirmed.

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