

Parshuram Patil Vs. State of Karnataka

Parshuram Patil Vs. State of Karnataka

SooperKanoon Citation : sooperkanoon.com/842574

Court : Karnataka

Decided On : Feb-01-2010

Reported in : 2010(2)KCCR813

Judge : Arali Nagaraj, J.

Acts : Indian Penal Code (IPC) - Sections 279, 304A and 337

Appeal No. : Criminal Revision Petition No. 2251 of 2009

Appellant : Parshuram Patil

Respondent : State of Karnataka

Advocate for Def. : P.H. Gotkhindi, High Court Government Pleader

Advocate for Pet/Ap. : G.A. Holeyannavar, Adv.

Judgement :

ORDER

Arali Nagaraj, J.

1. The accused in C.C. No. 141/2006 on the file of the learned Principal Civil Judge (Senior Dn.) and CJM, Dharwad, has challenged in this revision the correctness of the impugned Judgment and Order of conviction and sentence dated 25/1/2002 passed in the said case convicting him for the offences under

Sections 279 and 304-A of IPC and sentencing him to undergo simple imprisonment for a period of one month and to pay fine of Rs. 400/- in default to undergo simple imprisonment for another period of 15 days for the offence under Section 279 of IPC and to undergo simple imprisonment for a period of one year and also to pay fine of Rs. 1,000/- with default sentence of simple imprisonment for a further period of one month for the offence under Section 304-A of IPC.

2. Further, the revision petitioner-accused has also challenged in this revision the correctness of the Judgment and Order dated 1/9/2009 passed in CrI.A. No. 31/2008 by the learned Prl. Sessions Judge, Dharwad, dismissing the said appeal and confirming the conviction of the accused for the said offences.

3. Heard the arguments of Sri G.A. Holeyannavar, the learned Counsel for the revision petitioner-accused and Sri P.H. Gotkhindi, the learned High Court Government Pleader. Perused both the Judgments and also entire material on record obtained from the Trial Court.

4. At the outset, Sri G.A. Holeyannavar, the learned Counsel for the revision petitioner-accused submits that, though several grounds are urged in the revision petition challenging the correctness of both the Judgments, he does not dispute the findings recorded by the Trial Court and the Appellate Court as to conviction of the accused for the offence under Section 279 of IPC. While submitting so, he further contends that, the Trial Court was not justified in convicting the accused for the offence under Section 304-A of IPC in view of undisputed fact that though the accident occurred on 5/1/2006 at about 08-30 a.m., the deceased died on 12/1/2006 i.e., seven days after the occurrence of the said accident and there is no material on record to show that the death was due to the very same injuries sustained by victim boy as a result of the said accident.

5. Per contra, Sri P.H. Gotkhindi, the learned High Court Government Pleader strongly contends that, the factum of accident occurred on the date, time and place as alleged in the charge framed against the accused has been found to have been proved by the prosecution beyond reasonable doubt and the findings of the Trial Court as well as Appellate Court that the said accident was due to rash and negligent driving of his vehicle by the accused is not in dispute and therefore the

Trial Court was justified in convicting the accused for the offence under Section 304-A of IPC also.

6. PW.9, the father of the deceased boy, has only stated in his evidence that, his deceased son sustained some injuries to his head as a result of the said accident and that he died on 12/1/2006 while he was under treatment. The prosecution has not chosen to produce the wound certificate to show the nature of injuries sustained by the deceased in the said accident.

7. The post mortem examination report which is marked as Ex.P.7 only reveals that the death of the deceased was due to injuries sustained by him to his head. Therefore, as rightly submitted by the learned Counsel for the revision petitioner-accused, the prosecution has failed to establish that the deceased succumbed to the very injuries which he sustained as a result of the said accident. Therefore I am of the opinion that the conviction of the revision petitioner-accused for the offence under Section 304-A of IPC cannot be sustained. However, since the fact that the deceased sustained some injuries to his head is not in dispute, the conviction of the accused for the offence under Section 304-A of IPC deserves to be altered to the one under Section 337 of IPC.

8. For the reasons aforesaid, the present appeal is allowed in part. The conviction of the revision petitioner-accused for the offence under Section 279 of IPC and also the sentence of simple imprisonment for a period of one month imposed on him for the said offence along with the sentence of fine of Rs. 400/- with the default sentence of simple imprisonment for a further period of 15 days is hereby confirmed.

However, the conviction of the revision petitioner-accused for the offence under Section 304A of IPC is hereby altered to the one under Section 337 of IPC. Accordingly he is sentenced to undergo simple imprisonment for a period of 15 days and to pay a fine of Rs. 500/- in default to undergo simple imprisonment for a period of 15 days. Both the substantive sentences shall run concurrently.

Further, the revision petitioner-accused shall pay to PW.9 Shankar Ramachandrappa Guroji, the resident of Kalaghatagi, the father of the deceased

boy, a sum of Rs. 10,000/- towards compensation. If this amount is not deposited with the Trial Court by the accused within eight weeks from today, the Trial Court shall recover the same and pay to PW 9.

The revision petitioner-accused shall surrender to the custody of the Trial Court for receiving sentence of imprisonment.

A copy of this order shall be sent forthwith to the Trial Court for information and compliance.

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