

Tek Chand Vs. State of H.P.

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Court : Himachal Pradesh

Decided On : Jun-19-2009

Judge : Surjit Singh, J.

Appellant : Tek Chand

Respondent : State of H.P.

Judgement :

Surjit Singh, J.

1. Revision petitioner is aggrieved by his conviction and sentence, for offences, punishable under Sections 279, 337 and 304-A of the Indian Penal Code, and Section 180 of the Motor Vehicles Act, by the trial Court and the dismissal of his appeal against the said conviction, by the Sessions Court. So, he has preferred the present Revision Petition.

2. Appellant has been sentenced by the trial Court to undergo simple imprisonment for three months and to pay fine of Rs. 500/- for offence, under Section 279 of the Indian Penal Code; simple imprisonment for three months and fine of Rs. 200/- for offence, under Section 337 of the Indian Penal Code; imprisonment for six months and fine of Rs. 500/-, for the offence, under Section 304-A of the Indian Penal Code; and simple imprisonment for one month and fine of Rs. 250/- for offence, under Section 180 of the Motor Vehicles Act. Whether reporters of the local papers may be allowed to see the judgment?

3. Case of the prosecution, which led to the conviction and sentencing of the revision petitioner, is like this. Petitioner was engaged as driver on Truck No. HP-30-0765, by Prakash Gupta (PW-6). On 28th February, 1998, when the Truck was going towards Bakhrot, PW-1 Damu Ram boarded it. On reaching Bakhrot, the Truck was kept parked for about three hours. Thereafter, it started towards village Chindi. On the way, the petitioner allowed one Amar Lal to drive the Truck. Said Amar Lal turned the Truck to one side of the road, where two ladies were present and hit those ladies. The Truck ran over one of the two ladies and crushed her to death. Thereafter, it rolled down the road and landed about 100 feet below the road. The other lady sustained simple injuries. She was examined as PW14. Her name is Putli Devi.

4. Trial Court held the petitioner guilty of all the aforesaid offences and sentenced him, as aforesaid. He appealed against the judgment of the trial Court to the Sessions Court and his appeal has been dismissed.

5. Learned Counsel for the revision petitioner has submitted that the evidence on record does not prove, beyond reasonable doubt, that the vehicle was being driven by the revision petitioner, when the accident took place and that the finding recorded by the trial Court that it was he, who was driving the vehicle, is contrary to the evidence on record. He has taken me through the testimony of PW-1 Damu Ram, who was on board the truck when the accident took place and PW-14 Putli Devi, who was present by the side of the road and was hit by the truck.

6. PW-1 Damu Ram lodged report Ex. PW-1/A, soon after the accident had taken place. As per this report,

when the truck started from Bakhrot, in the direction of Chindi, revision petitioner allowed Amar Lal, a co-accused with the revision petitioner, to take try and that said Amar Lal steered the truck in the direction where two ladies were standing and hit those ladies. While in the witness-box, he stated that he did not know who was driving the truck, at the time when the accident had taken place. PW-14 Putli Devi, however, categorically stated that the truck was being driven by Amar Lal, when the accident had taken place.

7. Testimony of PW-14 Putli Devi is believable, because it is in consonance with the earliest version given to the police. That means the truck, at the relevant time, was being driven by Amar Lal and it was he, who caused the accident. Amar Lal had also been tried alongwith the present petitioner and was convicted of the offence, under Section 181 of the Motor Vehicles Act, and sentenced to undergo imprisonment for one month and to pay a fine of Rs. 250/-. He is stated to have not filed any appeal against his conviction and sentence.

8. It has come in evidence, per testimony of PW-6 Prakash Gupta, that Amar Lal, who drove the truck, was engaged by the petitioner as conductor on the truck, on payment of Rs. 600/- per month, as salary. There should be no reason to disbelieve his testimony. Damu Ram, in his deposition as PW-1, categorically stated that both, the present revision petitioner and Amar Lal, were in the driver's cabin, though he stated that he did not know which of the two was driving the vehicle, when the accident took place.

9. According to the learned Counsel for the petitioner, Amar Lal was not a conductor, but conductor was some other person, as is clear from the testimony of PW-1 Damu Ram. The submission cannot be accepted, because PW-1 Damu Ram, who had just taken the lift, was not supposed to be knowing the conductor. Prakash Gupta, the owner of the truck, while appearing as PW-6, testified that Amar Lal was the conductor and he had been engaged by the present petitioner.

10. The very fact that the revision petitioner allowed the truck to be driven by a conductor, who was not supposed to be knowing the skill of driving, amounts to an act of criminal negligence, on his part, punishable under Section 304-A of the Indian Penal Code.

11. Learned Counsel for the revision petitioner, relying upon a judgment of the Hon'ble Supreme Court, in Jacob Mathew v. State of Punjab and Anr. : 2005CriLJ3710 , has urged that for holding a person liable for criminal negligence, the person has to be shown to have committed the alleged negligent act and there should not be any act of negligence on the part of another person.

12. In the present case, the revision petitioner is directly guilty of act of negligence, inasmuch as he handed over the truck, for being driven, to a person, who did not know driving, but was only a conductor. It was this act, which led to the accident, in which one lady died and another received injuries. Consequently, the Revision Petition is dismissed.

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