
(2011) 09 KAR CK 0012

In the Karnataka High Court

Case No : Criminal Revision Petition No. 579 of 2006

Sri M.S. Aslam

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 279, 304 A

Citation : (2011) 09 KAR CK 0012

Hon'ble Judges : V. Jagannathan, J

Bench : Single Bench

Advocate : M.S. Rajendra Prasad, for the Appellant; Satish R. Girji, H.C.G.P., for the Respondent

Final Decision : Allowed

Judgement

V. Jagannathan, J.—This Criminal Revision Petition is by the accused being aggrieved by his conviction for the offences punishable under Sections 279 and 304-A of the I.P.C. and the consequent sentence of six months imprisonment and Rs. 1,000/- fine in respect of Section 304-A and Rs. 500/- fine in respect, of Section 279 of the I.P.C. with default sentences. The said judgment was confirmed by the lower appellate court by dismissing the appeal preferred by the accused.

2. At the outset, learned senior counsel Shri M.S. Rajendra Prasad for the Petitioner submitted that the trial court did not properly appreciate the evidence on record because, it wrongly put the burden on the accused to prove that the accident in question had not taken place on 3.4.2005 at 12.25 p.m. near Madaganahatti Gate bus stop. The second submission made is that, before the lower appellate court, the Petitioner's counsel could not address his arguments and therefore, the judgment of the lower appellate court was rendered under the said circumstance. It is contended by the learned senior counsel that the matter be remanded to the trial court, to appreciate the evidence; in proper perspective and as such, the petition be allowed for the above reasons.

3. Learned Government Pleader Shri Satish R. Girji, on his part, submitted that the judgments of the courts below call for no interference and if this Court is inclined to remand the matter, it may be remitted to the lower appellate court.

4. Having thus heard both sides, as the case against the Petitioner is that; of he having driven the bus bearing registration No. KA-06-A-7693 in a rash and negligent manner on Gowribidanur-Madhugiri main road and caused the death of one Thimakka and Amutha, the trial court, at the first instance, should have examined the evidence from the point of view of the prosecution proving its case beyond all reasonable doubt and the trial court could not have put the burden on the accused to prove that no accident had occurred.

5. Secondly, the lower appellate court disposed of the appeal hearing only the arguments of the Respondent-State and the counsel for the Petitioner did not address his arguments, although there is nothing to indicate at paragraph-7 of the judgment of the lower appellate court that the counsel for the Petitioner was present or sought time. Yet, having regard to the over all aspects of the matter and more so the trial court putting the burden on the accused to prove the negative, in my view, the matter requires remand to the trial court to consider the aforesaid contentions of the Petitioner and thereafter to dispose of the matter in accordance with law.

6. For-the above reasons, the petition is allowed and the judgments of the courts below stand set aside and the matter is remanded to the trial court to hear the parties afresh and then to dispose of the matter in accordance with law, within two months from the date of receipt of this order.

The records be sent back to the trial court forthwith.