

(2012) 10 KAR CK 0055

In the Karnataka High Court

Case No : Criminal Revision Petition No. 915 of 2010

Syed Khaleel

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 03-10-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 192, 279, 304 A, 337, 66 (1)

Citation : (2013) 1 AKR 863

Hon'ble Judges : A.N. Venugopala Gowda, J

Bench : Single Bench

Advocate : R. Shashidhara, for the Appellant; Vijayakumar Majage, HCGP, for the Respondent

Final Decision : Allowed

Judgement

A.N. Venugopala Gowda

1. The petitioner faced trial for the offences punishable under Ss. 279, 337, 338 and 304-A IPC and S. 192 r/w S. 66(1) of the Motor Vehicles Act and was convicted by the learned Trial Judge. Accused was sentenced to undergo imprisonment and pay fine, with default stipulation. Aggrieved, the accused filed an appeal in the Sessions Court at Chitradurga. The appeal was assigned to the Fast Track Court. Mr. I.S. Jantli, the Presiding Officer, Fast Track Court, Chitradurga dismissed the appeal. Assailing the judgment of conviction and order of sentence, the accused has filed this Criminal Revision Petition. Heard, Sri R. Shashidhara, learned advocate for the petitioner and Sri Vijayakumar Majage, learned High Court Government Pleader for the respondent and perused the record.

2. I am shocked and surprised, that in a matter where sentence of imprisonment was awarded by the learned Trial Judge, the Appellate Judge has dealt with the appeal in a most injudicious manner. This is yet another case of injudicious dismissal of a criminal appeal filed against the judgment of conviction. While

deciding Crl. R.P. No. 556/2010 (Sri Moulasab Vs. Thalak Police Station on 25.8.2012), it was noticed that Mr. I.S. Jantli as the Appellate Judge, had copied and pasted, paras 9 to 16 of the Trial Court Judgment, at paras 16 to 23 of his Judgment and by summing up the conclusion dismissed the appeal. The impugned appellate court Judgment herein is in no way different from the one noticed by this Court while deciding Crl. R.P. No. 556/2010. There is a verbatim copy of the trial court Judgment and its mechanical reproduction, without an iota of appreciation of record of the case with reference to the grounds raised in appeal memorandum and/or the grounds urged for consideration. The copying from the trial court Judgment and the reproduction in the Judgment passed in the appeal can be noticed from the table below:

* The omitted words of the Trial Court Judgment and the altered/substituted words in the Appellate Court Judgment are shown in bold letters.

3. The learned Appellate Court Judge should have considered the evidence in detail to evaluate the credibility of the testimony of the witnesses on the basis of which the learned Trial Judge had passed the Judgment of conviction and sentence. The Appellate Judge has failed to discharge the duty of an Appellate Criminal Court, since, the evidence on record has not been looked into nor is there any appreciation of the evidence, excepting, affirming the conclusion of the learned Trial Judge.

4. In an appeal filed in the Session Court against an order of conviction passed by the Trial Court, the Appellate Judge is under a duty to consider the matter in detail and the Court is duty bound to be satisfied that the guilt of the accused has been established beyond all reasonable doubts. The impugned Judgment of the Appellate Court suffers from improper judicial approach, jurisdictional error. The mechanical and injudicious dismissal of the criminal appeal has led to miscarriage of justice and warrants interference. Since, the appeal has not been decided in accordance with law, in my considered opinion, there is a need for consideration of appeal by the Appellate Court, both on questions of law and questions of fact.

In the result, the revision petition is allowed and the impugned Judgment and Order of the Appellate Court is set aside. The matter is remanded to the Appellate Court for decision afresh, keeping in view the observations made hereinabove.

In order to expedite the hearing and decision, the parties are directed to appear before the Appellate Court on 30.10.2012 and receive orders. The Appellate Court is directed to decide the appeal expeditiously and before 31st January 2013.

The lower court records be sent immediately to the Appellate Court.

The Registrar (General) is directed to place a copy of this order on the personal record of Sri I.S. Jantli and another copy be placed before the Hon"ble

Administrative Judge, concerned.