

(2012) 08 KL CK 0168

High Court Of Kerala

Case No: Criminal R.P. No. 450 of 2002

Jacob APPELLANT

Vs

Kerala State RESPONDENT

Date of Decision: Aug. 21, 2012

Acts Referred:

- Motor Vehicles Act, 1988 - Section 177, 185, 185(a)
- Penal Code, 1860 (IPC) - Section 279, 337

Hon'ble Judges: P.S. Gopinathan, J

Bench: Single Bench

Advocate: M.V. Mathai Muthirenty, for the Appellant; S. Hyma, Govt. Pleader, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

P.S. Gopinathan, J.

The Sub Inspector of Police, Ernakulam Town North Police Station, in Crime No. 1696/1995, prosecuted the revision petitioner before the Judicial Magistrate of the 1st Class-II, Ernakulam, accusing offences under Sections 279 and 337 of the Indian Penal Code (IPC) and Section 185 of the Motor Vehicles Act and Rule 162 read with Section 177 of the Motor Vehicles Act, 1988, with an allegation that at 12.10 a.m., on 14.8.1995, the revision petitioner after being intoxicated drove a lorry bearing Reg. No. KL.7/G 4476 in a rash and negligent manner along Ernakulam - Palarivattom main road so as to endanger human life and near Deshabhimani Junction lorry hit down a motorcycle throwing away the motorcycle and the rider to the footpath. The lorry then hit on a telephone post and rammed into an adjacent shop room. It was also alleged that the revision petitioner was not maintaining goods vehicle record (GVR) as mandated by the Rule. In response to the process issued, the revision petitioner entered appearance and pleaded guilty when the particulars of the

offence were read over and explained. Consequently, finding that the plea was voluntary, the appellant was convicted and sentenced to simple imprisonment for 45 days u/s 185(a) of the Motor Vehicles Act; and a fine of Rs. 1,000/- and Rs. 500/- respectively u/s 279 and 337 IPC. He was also slapped a fine of Rs. 1,000/- and Rs. 100/- respectively for offence u/s 185(a) of the Motor Vehicles Act and Section 177 of the Motor Vehicles Act. Aggrieved by the above conviction and sentence, he preferred Crl.A. No. 242/1997 before the Sessions Judge, Ernakulam. The Additional Sessions Judge, to whom the appeal was made over, by judgment dated 23.5.2001, arrived at a finding that the plea of the appellant was voluntary and that the conviction and sentence are just and appropriate. Assailing the legality, correctness and propriety of the above conviction and sentence, as confirmed in appeal, this Revision Petition is preferred.

2. I have heard Smt. N. Renju, the Learned Counsel appearing for the revision petitioner and Smt. S. Hyma, the learned Government Pleader. Perused the judgments of the courts below.

3. The Learned Counsel for the revision petitioner fairly conceded that since the revision petitioner pleaded guilty, the trial court was right in convicting the revision petitioner. But the plea is that the sentence of imprisonment awarded for offence u/s 185(a) of the Motor Vehicles Act is excessive. Going by the judgments of the courts below, I find that the specific case of the prosecution is that the appellant was driving the lorry under the influence of alcohol in a rash and negligent manner. The nature of the accident speaks volumes. The revision petitioner could not stop the lorry on hitting the motorcycle. The lorry was then driven off the road, hit on a telephone post and then rammed into the nearby shop. By the nature and impact of the accident, rash and negligent driving after being intoxicated is very evident. Taking into account of the entire facts and circumstances, I find that the sentence awarded by the trial court is neither harsh nor exorbitant. There is no reason to interfere in exercise of the revisional powers. The revision petition is devoid of merits. In the result, the Revision Petition is dismissed. The revision petitioner is directed to surrender before the trial court, which shall see the execution of sentence and report compliance.