

Supreme Court of India

Amar Singh vs The State Of Bihar on 26 March, 1971

Equivalent citations: (1971) 3 SCC 273, 1971 III UJ 518 SC

Author: C Vaidialingam

Bench: A Ray, C Vaidialingam

JUDGMENT C.A. Vaidialingam, J.

1. In this appeal, by special leave, Mr. R.C. Prasad, learned Counsel for the accused-appellant, challenges the order dated September 30, 1966 of the Patna High Court, dismissing the Criminal Revision No. 1378 of 1966 filed against the appellant's conviction by the two subordinate Courts for offences Under Sections 279 and 337 and 304A, Indian Penal Code. The appellant has been sentenced to undergo two years' rigorous imprisonment for an offence Under Section 304A. He was also sentenced to 6 months rigorous imprisonment for each of the offences Under Section 279 and 337 I.P.C. But the sentences were to run concurrently.

2. The case for the prosecution was as follows. The appellant was the driver of truck No. BRA 8735. On the morning of January 10, 1962, he was driving the truck, when a jeep bearing number BRM 1993 driven by P.W. 4, was coming from the opposite direction from Patna to Motihari. It was alleged that the appellant was driving the truck in a rash and negligent manner, resulting in the truck hitting the jeep violently at about 6.45 a.m. on that day. The jeep was overturned. One Indra Rajwar, who was the Khalasi of the jeep was thrown out from the jeep and he died then and there on the spot. Shri Devbarat Shastri, his wife Samundra Devi, and their two daughters Purnima Sinha and Chanda Devi, who were the other occupants of the jeep sustained very serious injuries. The truck was also damaged and stopped at a considerable distance. Sri N.K. Chandani, Colliery Manager of Jharia, who happened to pass that way in his car, on seeing the injured took them to the police station and after giving a report arranged to send them to the Patna General Hospital for treatment. But Devbarat Singh and Sumundra Devi died on the way to hospital. Dr. G.S. Verma, P.W. 1, who conducted the post mortem on the three dead bodies, has acted very serious injuries sustained as a result of the accident. Treatment was also given to the two injured Purnima Sinha and Chandra Devi.

3. The appellant denied that he was driving the truck at the material time. He also denied that he was driving the truck rashly and negligently. He further pleaded that it was a case of accident on account of the visibility being poor due to heavy fog and therefore he was not responsible for the accident.

4. The main evidence regarding the accident was that of P.W. 4, the driver of the jeep, involved in the accident. The prosecution also let in the evidence of the Investigating Officer regarding the position of the truck and the jeep after the accident as well as the particulars regarding the tyre marks found on the road.

5. Both the learned trial Magistrate as well as the Additional Sessions Judge on appeal, accepting the evidence of P.W. 4, the driver of the jeep, have come to the conclusion that the collision occurred because of the rash and negligent driving of the truck by the appellant on the day in question. Acting

on that evidence, the appellant has been convicted as mentioned above. His application for revising the orders of the subordinate Courts was summarily rejected by the High Court.

6. Mr. Prasad, learned Counsel for the appellant, urged that the evidence of P.W. 4, should not have been accepted as he was vitally interested in showing that there had been no fault on his part and that it was the appellant to blame.

7. It is no doubt true that the evidence of P.W. 4, whose jeep was involved in the accident, will have to be scrutinised carefully to see whether the accident was caused due to the rash and negligent driving of the truck by the appellant. But that is exactly what the trial Magistrate as well as the appellate Court have done. They have considered his evidence carefully and accepted the same as true.

8. We have been taken through the evidence of P.W. 4 His evidence clearly discloses that : (1) the truck was being driven by the appellant at a very high speed, (2) it was having no lights (3) the truck was being driven without the driver sounding the horn and (4) the visibility was very poor at that time. He was also stated that as there was a very heavy fog on the morning in question and as visibility was poor, he was driving the jeep very cautiously at a speed less than 15 to 20 miles per hour and he had put on both the head lights and he was also sounding the horn at intervals so to give warning to the vehicles approaching from the opposite side. He has also stated that he was all along driving the jeep on the left side of the road. There has been a very elaborate cross-examination of P.W. 4 on very many points. But on the above crucial aspects, which, in our opinion, are very conclusive against the appellant, there is absolutely no cross-examination. When that was so, the two Courts were perfectly justified in acting on the evidence of P.W. 4 and finding that the accident happened due to rash and negligent driving of the truck by the appellant. The High Court felt that there was nothing to be looked into when it dismissed the revision summarily.

9. We are of the opinion that there is absolutely no merit in this appeal, and it is accordingly, dismissed. The appellant will surrender his bail.