

UTDD010005672023



Received on : 28/08/2022
Registered on : 28/08/2022
Decided on : 03/07/2023
Duration : 00Y 10M 05D

Below Exh. 12

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS DAMAN AT
DAMAN

(Presided over by Smt. S. N. Sawaleshwarkar)

R.C.C. No. 72/2022 (Old Case)

Re-registered as S. C. C. No. 217/2023

(FIR / Crime No. 34/2022 registered with
Nani Daman Police Station)

Informant		The Administration of Daman and Diu Through SHO, Nani Daman Police Station, Nani Daman, Daman.
Represented by		Shri. Shreeram Deshpande A.P.P. for prosecution for the U.T.
Accused		1) Venkata Narasimha Rao Shetty Age 49 years, R/o.A-03, Royal Village, Kunta, Vapi – Gujarat 2) Dhaneshwar Jamnadas Damania Age 45 years, R/o. House No. 07, Near Ranchhoddas Temple, Iskat Sheri, Machhiwad, Nani Daman
Represented by		Shri C. K. Modasia Advocate for accused

Date of Offence	29/04/2022
Date of FIR	29/04/2022
Date of Chargesheet	25/08/2022
Date of framing of charge	03/07/2023
Date of commencement of evidence	03/07/2023

Date on which judgment is reserved	03/07/2023
Date of Judgment	03/07/2023
Date of Sentencing order, if any	--

ACCUSED DETAILS

Rank of the Accused	Name of accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of section 428 Cr.P.C
1)	Venkata Narasimha Rao Shetty	9/8/2022	09/08/2022	287 and 304-A of IPC	Acquitted	NA	NA
2)	Dhaneshwar Jamnadas Damania	9/8/2022	09/08/2022	287 and 304-A of IPC	Acquitted	NA	NA

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. PROSECUTION :

Rank	Name	Nature of Evidence
1	Amit Upendra Rai	Informant
2	Gayatrikumari Pankajkumar	Deceased wife

B. Defence Witnesses, if any : Nil

C. Court Witnesses, if any: Nil

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1)	14	Report

- B. Defence : Nil
- C. Court Exhibits : Nil
- D. Material Objects: Nil

JUDGMENT

(Delivered on 03/07/2023)

1) Accused are being tried for the offences punishable under section 287 and 304-A of the Indian Penal Code (for short 'IPC').

2) Looking to the submissions advanced by both the sides, requisites of the particulars recorded following points arise for determination. My findings are mentioned against each point for the reasons given further.

POINTS	FINDINGS
1. Does the prosecution prove that on 29/04/2022 at 22.30 hours at Pack Print, Riganwada, Nani Daman accused omitted to provide safety measures to which was so rash and negligent as to endanger human life and thereby committed an offence punishable under section 287 of the IPC ? In the negative
2. Does the prosecution prove that on the aforesaid date, time and place death of Pankaj Surendra Rai by doing an act namely, not providing safety measures which was rash or negligent not amounting to culpable homicide due to which he got electrocuted and thereby committed an offence punishable under section 304-A of the IPC ? In the negative
3. What order ? Accused are acquitted

REASONS

3) In order to prove its case, prosecution examined informant and deceased wife. Thereafter, prosecution evidence was closed as per order passed below Exh. 1. Statement under section 313 of Cr.P.C. was recorded.

As to points no. 1 and 2 :

4) For proving the offences punishable under section 287 and 304-A of the IPC, the prosecution must prove that the accused caused death of Pankaj Surendra Rai by not providing safety equipments to him as is sufficient to guard against probable danger to human life from such machinery.

5) Informant Amit Rai is deposed below Exh. 13. In his chief examination he stated or deposed as per contention of report which is filed at Exh. 14. In cross examination he clearly admitted that legal heirs of Pankaj Rai got compensation amount and legal heirs of deceased have no complaint against the accused. Their disputes amicably settled outside the Court and parties have filed Pursis at Exh. 15. Deceased wife Gayatridevi declared hostile witness. Nothing came on record to show the guilt against the accused. Prosecution failed to prove aforesaid offences against accused. Moreover, at Exh. 15 compromise pursis filed by accused and informant mentioned that matter is settled between the parties amicably. Hence, it cannot be said that the accused endangered injured life by negligently omitting to take such order with the machine in his possession by not providing safety equipments to him as is sufficient to guard against probable danger to human life from such

machinery. Thus, there is no evidence on the record to show the negligent act of the accused in respect of the machine. Resultantly, the evidence proving the factors as mentioned in para. 4 of this judgment could not come on record. Hence, the accused is entitled to be acquitted. Therefore, I have answered point no. 1 and 2 in the negative. In the result, I pass the following order in answer to point no. 3.

ORDER

1) Accused- (1) Venkata Narasimha Rao Shetty and (2) Dhaneshwar Jamnadas Damania are acquitted of the offences punishable under section 304-A and 287 of the Indian Penal Code, 1860 vide section 255(1) of the Code of Criminal Procedure, 1973.

2) Accused No. 1 PR bond stands cancelled. The amount of cash security be refunded to the accused forthwith and Accused No. 2 bond stands cancelled.

3) They shall execute P.R. bond of Rs. 15,000/- vide section 437-A of the Code of Criminal Procedure.

Date : 03/07/2023
Daman

(S. N. Sawaleshwarkar)
Judicial Magistrate First Class,
Daman

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment/order are same, word to word, as per the original Judgment/Order.

Name of the Clerk : Jigar J. Patel, Junior Clerk

Court : Judicial Magistrate, First Class, Daman.

Judgment/Order Signed by Presiding Officer on 04/07/2023

Judgment/Order uploaded on 04/07/2023.