

UTDD010005672023



Received on : 28/08/2022
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 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)**

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|-----------------------|--|
| 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 | <p>1) Venkata Narasimha Rao Shetty Age 49 years, R/o.A-03, Royal Village, Kunta, Vapi – Gujarat</p> <p>2) Dhaneshwar Jamnadas Damania Age 45 years, R/o. House No. 07, Near Ranchhoddas Temple, Iskat Sheri, Machhiwad, Nani Daman</p> |
| 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 |

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|------------------------------------|------------|
| 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 proves 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.