

PETITIONER:
VASANT

Vs.

RESPONDENT:
THE STATE OF MAHARASHTRA

DATE OF JUDGMENT: 10/12/1997

BENCH:
G.T. NANVATI, G.B. PATTANAİK

ACT:

HEADNOTE:

JUDGMENT:
THE 10TH DAY OF DECEMBER, 1997

Present:

Hon'ble Mr. Justice G.T. Nanavati
Hon'ble Mr. Justice G.B. Pattanaik

A.K. Chitale, Sr. Adv., Dr. S.B. Masodkar and K.L. Taneja,
Advs. with him for the appellant
S.S. Shinde, Adv. for D.M. Nargolkar, Advs. for the
Respondent

J U D G M E N T

The following Judgment of the Court was delivered:
NANAVATI, J.

These two appeals are directed against the common judgment of the High Court of Bombay in Crl.A.Nos. 136/86 and 41/86.

Crl. A.No.41/86 was filed by the appellant challenging his conviction by the trial court under Section 304A of the Indian Penal Code. Crl. A.No. 136/86 was filed by the state as the appellant was acquitted for the offence punishable under Section 302 IPC. The High Court allowed the State appeal and dismissed the appeal filed by the appellant.

It was the prosecution case that Shirdhar, a Social Worker, was complaining against the appellant as he has parking a jeep near his house and thereby creating an obstruction to the residents of that locality. That led to enmity between him and the appellant.

A few days before the date of the incident, Shridhar had threatened the appellant that he would complain about his behaviour to his superior officer, On 13.7.84. at about 1.30 p.m., the appellant was seen grappling with Shridhar on the road about 400 feet away from Shivni Bus stand. This incident was witnessed by PWs 3 and 5 - Gajanan Murumkar and Shrikrishna. The appellant and Shridhar were separated by PWs 2,3,5, and others, Shridhar at that time told the appellant that it was open to him to put him in jail on that day as he was drunk but he would see him on the next day after coming out of the jail. The appellant thereupon went running towards the place where boring work was going on and where he had kept his jeep bearing No. MTJ 7343, He jumped into the jeep, started it and took it in reverse upto the intersection of the road and then took it towards the

deceased in high speed. PW 4 - Sultan who was walking ahead of the deceased got frightened and as a result thereof articles which he was carrying on his head fell down and he had to run for over. The appellant proceeded ahead by taking his jeep on the wrong side of the road and then knocked down Sridhar-deceased, Sridhar fell down and was run over by the jeep. The appellant took his jeep ahead by a few feet and then brought it back on the left side of the road. it was the prosecution case that the appellant had dashed his jeep against Shridhar intentionally with a view to cause his death.

The trial court held that there was no strong motive for the appellant to murder the deceased. It believed that the appellant had gone to the extreme wrong side of the road and knocked down the deceased but in absence of any intention to kill, the trial court held that the death of Shridhar was caused as a result of rash and negligent driving of his jeep by the appellant. The trial Court, therefore, convicted the appellant under Section 304A of the IPC and not under Section 302 IPC.

The High Court after reappreciating the evidence held that all the circumstances proved by the evidence of PWs. 2,3 and 4 clearly indicate that what was done by the appellant was done intentionally. The High Court took note of the fact that the place where the incident took place was a Tar Road 19 feet in Width. At the time of the incident, no other pedestrian or vehicle was passing on that road. The High court, therefore, took the view that there was no other reason for the appellant to take his jeep in great speed on the wrong side of the road. In his statement under Section 313 Criminal Procedure Code the appellant denied these circumstance as false.

Taking all these factors into consideration, the High Court held that the appellant had intentionally dashed his jeep against the deceased and run him over with an intention to cause his death

We have carefully gone through the judgment of the High Court, We find that the High Court has dealt with each and every reason given by the trial court and pointed out how those reasons are wrong.

learned counsel for the appellant is not in a position to point out that any of the reasons given by the High Court is wrong. So far as PW 4 is concerned, the High Court has given goods reason to believe his presence at the time of incident and for accepting his evidence. He has in clear terms stated that the appellant had gone running towards the spot where the boring work was going on, The appellant sat in the jeep which was standing there and took it in reserve upto the intersection which meets the National Highway. The appellant then came in great speed with the result he got frightened and ran for cover. The evidence of PWs 2 and 3 also support this version. Once it is believed that the appellant behaved in that manner and it is also believed that there was no other reason for the appellant to go on the wrong side of the Road, it has to be held that whatever the appellant had done was done intentionally and the incident did not happen accidentally.

In our opinion, the High Court was right in allowing the State appeal and convicting the appellant under Section 302 IPC. These appeals are, therefore, dismissed.

The appellant is directed to surrender to custody to serve out the remaining part of the sentence