

**Description and calender corrected point should be corrected
BEFORE THE PRL. MAGISTRATE FOR JUVENILE JUSTICE BOARD CUM
III ADDL.J.F.C.MAGISTRATE :: RAJAHMAHENDRAVARAM**

**PRESENT: Smt.D.Sreedevi, III Addl.J.F.C.Magistrate-Cum-
Prl. Magistrate for JJB, Rajahmahendravaram.**

Friday, the 2nd day of August, 2019.

J.C.C.No.1/2019

Between:

The Sub-Inspector of police, Gandepalli P.S.,
(Cr.No.85/2017)

...Prosecution.

And

Padala Durga Prasad, S/o. Anjibabu, 17 yrs,
C/Turpu Kapu, Anaparajupeta, Mallepalli village,
Gandepalli Mandal.

Rider of Hero Passion Plus bike bearing No. AP 05 BA 7971.

... Child in Conflict with Law.

This case coming on this day for hearing on 26-07-2019 in the presence of the Assistant Public Prosecutor for the State and T.Chakradhar, Advocate for Children in Conflict with Law and the matter having stood over for consideration till this day, the Board delivered the following:

FINAL ORDER

1. The Sub-Inspector of Police, Gandepalli P.S. filed final report against the Children in conflict with law (*herein after for short referred as - the CCL*) in Cr.No.85/2017 for the offence punishable U/s 337 & 338 of IPC.

2. The case of the prosecution, in brief, is as follows:

L.W.1/Kuppa Thatarao, is the resident of Pallapuveedhi, Jaggampeta village and Mandal. On 13-05-2017 morning L.W.1/Kuppa Thatarao along with his wife Ananthalakshmi, daughter Keerthi Veera Durga went to the temple of Lord Venkannababu of Vadapalli village, Athreyapuram Mandal on his Hero Glamour bike for fulfilling their oaths and after that while they were returning to their house on the bike and when they reached Anaparajupeta center, Mallepalli village, Gandepalli on NH-16 road at about 9.00 hours, one

Hero Passion Plus bike bearing registration no. AP 05 BA 7971 which was coming from Anaparajupeta to NH-16 road and while the passion plus bike was crossing divider of road due to the rash and negligent driving of rider of passion plus bike i.e. ccl, it dashed the motor bike of the L.W.1/ Kuppa Thatarao as a result of which the L.Ws. 1 to 3 fell on road. The L.Ws, 1 and 2 sustained multiple bleeding injuries and the L.W.3 / Kuppa Keerthi sustained severe injuries and all the injured were shifted to GSL Hospital, Rajangaram.

On receipt of MLC intimation of the L.Ws. 1 to 3 the statement of L.W.1/ Kuppa Thatarao was recorded, L.W.9/A.S.I of police registered this case on 14.05.2017 at 18.00 hours and submitted FIRs to all concerned and took up investigation. During the course of investigation the L.W.9/ Assistant sub-Inspector of police examined L.ws. 1 to 3 at GSL Hospital, Rajanagaram and recorded their statements. The L.W.9/Assistant Sub-Inspector of police visited the scene of offence, examined it and prepared rough sketch. The L.W.9/Assistant sub-Inspector of police examined L.Ws. 4 to 6 and recorded their detailed statements.

During the course of investigation, the L.W.9/Assistant Sub-Inspector of police apprehended the ccl on 23.05.2017 at 18.00 hours at the premises of Police station on his surrender and after taking sureties, the L.W.9/Assistant Sub-Inspector of police released the CCL on bail. The L.W.10/Sub-Inspector of police took up further investigation and verified the investigation of L.W.9/Assistant Sub-Inspector of police found to be in correct lines. L.W.7/Motor Vehicle Inspector inspected the crime vehicle and issued MVI report and he opined that the accident was occurred not due to mechanical defects of the crime vehicle. The L.W.8/ Medical Officer issued wound certificates of the L.ws. 1 to 3 in which he opined that the injuries sustained by the L.Ws. 1 and 2 are simple in nature and the injuries sustained by L.W.3/K.keerthi Veera Durga are grievous in nature. L.w.10/ Sub-Inspector of police after completion of investigation filed the final report in the above case

against the CCL.

3. This case was taken on file for the offence punishable U/s 337 and 338 of IPC against the CCL and was numbered as JCC 1/2019.

4. On appearance of the CCL, copies of documents were furnished to him, as envisaged under Sec.207 of Code of Criminal Procedure.

5. To substantiate its case, the prosecution has examined PWs.1 to 8, got marked Exs.P1 to P8.

6. After completion of the prosecution side evidence, CCL is examined U/s 313 Cr.P.C. with regard to the incriminating material found against them for which they denied and reported no defence evidence.

7. Heard both sides arguments submitted by the Learned APP and Counsel for the CCL.

8. Now the point for determination is :
“Whether the prosecution proved the guilt of CCL for the offence punishable U/s 337 and 338 of IPC beyond all reasonable doubt?”.

9. The prosecution contended that CCL had drove the vehicle in rash and negligent manner and thereby dashed P.W.1 and caused injuries to P.W.1 to P.W.3 and hence prayed the board to convict the CCL.

10. The contention of the CCL is total denial of prosecution allegations leveled against them. He contended that he was falsely implicated in the present case and he is no way concerned with the present case. As such

the burden heavily lies on prosecution to prove that the CCL had committed the alleged offence.

11. In order to prove its case, the prosecution examined Pws 1 to 8 and got marked EX.P1 to P8. Among the prosecution witnesses, Pw1 is the defacto complainant, Pw2 is the wife of P.W.1, PW3 is the daughter of P.W.1, Pw4 to 6 are the eye witnesses P.W.7 is the medical officer, P.W.8 Investigating officer. Out of the documents exhibited by the prosecution, Ex.P1 is the Statement of P.W.1, Ex.P2 is the 161 Statment of P.W.4, Ex.P.3 is the 161 statment of P.W.5, EX.P4 is the 161 Statement of P.W.6, Ex.P.5 is the wound certificate, Ex.P.6 is the FIR, Ex.P.7 is the Rough sketch and Ex.P.8 is the MLC intimation of P.W.1.

12. POINT The evidence of P.W.1 is that on 13-5-2017 they went to Vadapalli village to have darshan of lord venkateswara Swamy and returned back on hero glamour bike bearing No.6082 they reached Mallepalli village at about 9 a.m. Mean while two persons came on bike and dashed his bike as a result of which he and his wife and his daughter fell down on the road. His daughter sustained injury on her skull and he also sustained injury on skull. His wife lost her front teeth. The neighbours at the place of scene of offence made a phone call to 108 ambulance and they were shifted to Rajangaram GSL hospital, Rajanagaram in ambulance. He and his wife and his daughter are admitted in GSL hospital for a period of 14 days for treatment. Doctor advised them to use the medicines for a period of 1 year. P.W.1 further stated that Ccl is the person who dashed his bike and on the date of incident and at relevant point of time ccl is driving the bike. During the cross examination he stated that he did not state to the police about the vehicle number of the bike which dashed his bike. He denied the suggestion that he stated to the police in Ex.P1 that due to the lost of control of his bike and due to lack of balance two bikes were colluded with each other and he did

not state to the police the name of the person who is driving the crime vehicle on the date of incident at the relevant point of time. He further admitted that he did not state to the police either in Ex.p-1 or during his examination under section 161 crpc that he can identify the person who dashed his bike. He further denied the suggestion that he drove the vehicle with the 3 members on the vehicle and due to lack of control and lack of balance he fell down as he drove the vehicle in high speed and gave false report to the police and ccl did not hit his bike by driving the vehicle in a rash and negligent manner.

13. The wife of P.W.1 is examined as P.W.2 and the evidence of P.W.2 is that on 13.05.2017 they went to Vadapalli village to have darshan of lord Venkateswara Swamy and returned back on hero glamour bike bearing No. 6082 they reached Mallepalli village at about 9 A.M., mean while two persons came on bike and dashed their bike as a result of which she and her husband and her daughter fell down on the road. She and her husband and her daughter are going on bike. She further stated that CCI came in wrong route and dashed their bike and she lost her front teeth and her daughter sustained injury on her skull and her husband also sustained injury on skull. The neighbours at the place of scene of offence made a phone call to 108 ambulance and they were shifted to Rajanagaram GSL Hospital, Rajanagaram in ambulance. She and her husband and her daughter are admitted in GSL hospital for a period of 15 days for treatment. During the cross examination she admitted that they are coming on NH-16 road and accident was happened at that time and there is a divider at the place of scene of offence. She denied the suggestion that she did not state to the police that their bike fell down due to lack of balance and control. She further denied the suggestion that they started from their house in the early morning and due to heavy rush at the temple they are restless on that day and so while

driving the bike due to lack of balance and control they fell down and ccl never dashed their bike and their bike fell down due to lack and control and balance.

14. The daughter of P.W.1 is examined as P.W.3 and the evidence of P.W.3 is that on 13-5-2017 she went to Vadapalli village to have darshan of lord venkateswara Swamy at about 5 am on bike along with her parents and returned back on hero glamour bike bearing No.6082 and they reached Mallepalli village at about 9 a.m. Mean while two persons came on bike and dashed her bike as a result of which she and her parents fell down on the road. P.W.3 identified CCL as the driver of the crime vehicle at the relevant point of time. Ccl came in wrong route and dashed their bike as a result of which they fell down and she felt unconscious. After 7 days she got conscious and at that time she was present in GSL hospital, Rajanagaram. She further stated that she cannot say the manner how she was shifted to hospital. She sustained injury on her skull and on her left hand and further stated that she and her parents were admitted in GSL hospital for a period of 10 days for treatment. During the cross examination she admitted that she stated to the police that her father was unable to balance the bike and so the two motor cycles were dashed each other and the accident was happened and they fell down. She denied the suggestion that they started to the temple in the early morning and due to restless her father was unable to balance the bike and so they fell down and no accident had happened as stated by her.

15. According to the case of the prosecution P.W.4 to P.W.6 are eye witnesses to the incident but they all deposed in one voice that at about 2 years back three persons fell down from the bike and another bike came and dashed the first bike. They did not state any thing against Ccl and they did

not support the case of the prosecution and turned hostile.

16. The evidence of P.W.7 is that on 13-5-2017 at about 9-45 p.m. he examined pw.1 and found the following injuries.

1. Small abrasion over the right wrist. 2. Hematoma on left super orbital region measuring about 3 x 1 inches in size 3. Black eye on left side 4. Ct brain scan shows that left frontal contusion. He further stated that he is of the opinion that the injury No.1 is simple and the injuries No.2 and 3 are grievous in nature and accordingly he issued wound certificate of pw.1. During the cross examination he admitted that the kind of the injuries sustained by pw.1 might also be sustained if one falls from a moving vehicle.

17. The evidence of P.W.8 is that on 14-5-2017 at about 6 p.m. while he was present in the police station he received the MLC intimation and statement of PW.1 and then he registered a case in Cr.No.85/2017 u/s.337, 338 IPC. Then he went to the hospital and examined pw.1, pw.2, pw.3 at the hospital. He further stated that he went to the place of scene of offence, drafted rough sketch, examined the witnesses and after the completion of investigation he filed final report in this case. During cross examination he admitted that pw.1 stated to him that they went to Vadapalli venkannababu temple on bike and are coming back and he lost the control of his bike and dashed another bike and fell down. He denied the suggestion that he did not go to place of scene of offence and did not prepare rough sketch and he conducted table investigation.

18. The learned APP argued that P.W.1 categorically deposed that ccl had driven the vehicle and dashed the bike of P.W.1 as a result of which P.W.1 felldown on the road and sustained injury on his skull and P.W.2 lost her front teeth and P.W.3 also sustained injury on the skull. The learned APP further

stated that the testimony of P.Ws. 1 to 3 are corroborating which each other and are consistent and their evidence proves that ccl had committed the offence and hence, prayed the board to convict the ccl.

19. Per contra the counsel for ccl argued that there are contradictions between the testimony of P.Ws. 1 to 3 and there are exaggerations and improvements in the evidence of P.Ws. 1 to 3 and hence, prayed the board to acquit the ccl.

20. It is the evidence of P.W.1 that on 13.05.2017 he along with P.Ws. 2 and 3 went to Vadapalli village to have darshan of lord Venkateswara swamy and after darshan they returned back on Hero Glamour bike bearing No. 6082 and when they reached Mallepalli village at about 9 A.M., mean while two persons came on bike and dahed his bike as a result of which he and his wife and his daughter fell down on the road and sustained injuries. The evidence of P.W.2 and P.W.3 also discloses the same facts. During cross examination it was suggested to P.W.1 that he stated to the police in his report that due to lost of control of his bike and due to lack of balance two bikes were colluded with each other. P.W.1 denied the same. At this juncture this board perused the contents of Ex.P.1 report. Ex.P.1 report discloses that P.W.1 stated to the police that one person came on Glamour Motor cycle with the high speed and negligently had driven the bike as a result of which P.W.1 lost of control of his bike and so the bikes colluded together and P.W. 1 fell down and sustained injuries but coming to the evidence P.W.1 stated that two persons came on bike and dashed his bike and so he fell down from the bike. P.W.1 did not state to the police that the persons who came on bike dashed is bike but whereas he deposed before the board differently. So the evidence of P.W.1 is nothing but exaggerations and improvments made by P.W.1 to suit his case. During cross examination it was suggest to P.W.2 that she stated to

the police that their bike fell down due to lack of balance and control and P.W.2 denied the same. At this juncture this board perused the 161 Cr.P.C., statement to P.W.2 and she categorically stated that her husband lost the control over the bike and as a result they fell down from the bike. But coming to evidence P.W.2 stated that two persons came on bike and dashed their bike, as a result of which they fell down from the bike. So the testimony of P.W.2 is also nothing but exaggerations and improvements and P.W.3 also stated to the police that they fell down from the bike as her father lost the control over the motor bike and P.W.3 deposed before the board in a new version that ccl dashed their bike as a result of which they fell down. According, to the case of the prosecution P.W.4 to P.W.6 are the eye witnesses to the incident and they stated that the police did not examine them and they do not know the facts of the case and turned hostile. The evidence of P.W.8 shows that he conducted the investigation and filed final report. During cross examination P.W.8 also stated that P.W.1 stated to him that he lost control of his bike and dashed another bike and fell down. So the testimony of P.W.8 is also corroborating the fact that P.W.1 stated to the police that due to lack of control P.Ws. 1 to 3 fell down and sustained injuries. In order to prove the offence under section 337 of IPC., the prosecution has to prove that ccl had caused hurt to P.W.1 by doing any act so rashly and negligently which endangers the life and personal safety of P.W.1. The prosecution has to prove that ccl had caused grievous hurt to P.W.1 by his rash and negligent act. In this case the doctor who gave treatment to P.W.1 is examined as P.W.7 and he deposed about the injuries sustained by P.W.1 and P.W.7 is of the opinion that the injuries sustained by P.W.1 are grievous in nature. Though P.W.7 deposed that injury sustained by P.W.1 are grievous in nature P.Ws. 1 to 3 evidence is not inspiring the confidence of this board in view of contradiction and exaggerations and improvements in their evidence. The testimony of P.W.7 is not helpful to the prosecution to prove its case.

The investigating officer i.e., P.W.8 also stated that P.W.1 stated to him that they fell down from the bike as they lost the control over the bike. So the evidence of P.Ws. 1 to 3 is not inspiring the confidence of this board and no ring of truth is found in the evidence and the prosecution failed to prove that ccl drew the bike in rash and negligence manner and dashed the bike of P.W.1 as a result of which P.W.1 to P.W.3 sustained injuries. The prosecution failed to show that CCL had done a rash and negligent act and his act is proximate to the injuries sustained by P.W.1 to P.W.3 and hence, the above point is answer in favour of ccl and against the prosecution.

21. In the result CCL is found not guilty for the offence punishable U/Sec.337 and 338 of IPC and is acquitted U/Sec.255(1) of Cr.P.C. The bail bonds of the CCL and his sureties shall stand cancelled after lapse of six months. No property is produced in this case and hence, no property order is passed.

Dictated to Stenographer transcribed by her , corrected and pronounced by me in open Board on this the 2nd day of August, 2019. '

Sd/-D.Sreedevi
Prl.Magistrate for Juvenile Justice Board,
Rajamahendravaram.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For prosecution :

For CCL :none

P.W.1	02-05-2019	K. Tata Rao
P.W.2	02-05-2019	K. Anantha Lakshmi
P.W.3	02-05-2019	K. Keerthi Veera Durga
P.W.4	09-05-2019	J. Ramana
P.W.5	09-05-2019	V. Rambabu
P.W.6	09-05-2019	Chekka Ganga Raju

P.W.7 06-06-2019 Dr. T. Narasimha Reddy

P.W.8 20-06-2019 A.Varahala Raju

EXHIBITS MARKED

For Prosecution:

For CCL : none

Ex.P1 Statement of P.W.1

Ex.P2 161 statement of P.W.4

Ex.P3 161 statement of P.w.5

Ex.P4 161 Statement of P.w.6

Ex.P5 Wound certificate

Ex.P6 First Information Report

Ex.P7 Rough sketch

Ex.P.8 MLC Intimation of P.W.1

MATERIAL OBJECTS

Nil

Sd/-Smt. D.Sreedevi
PRL.MAGISTRATE FOR JJB,

Rajahmahendravaram.

//TRUE COPY//

PRL. MAGISTRATE FOR J J B,
Rajahmahendravaram.

CALENDAR
BEFORE THE PRL. MAGISTRATE FOR JUVENILE JUSTICE BOARD CUM
III ADDL.J.F.C.MAGISTRATE :: Rajahmahendravaram

PRESENT: Smt.D.Sreedevi, Prl. Magistrate for JJB, Rajahmahendravaram.

J.C.C.No.1/2019

Dates of :

Offence:	: 13-05-2017
Complaint:	: 28-12-2018
Apprehension of Juvenile	: 23-05-2017
Release on Bail	: --
Commencement of Trial	: 02-05-2019
Close of trial:	: 20-06-2019
Sentence or order:	: 02-08-2019
Explanation for delay	: Due to non production of Prosecution
Witnesses	in time.

Name of complainant :Sub-Inspector of Police,
 Gandepalli P.S.,
 (Cr.No.85/2017)

Name of the juvenile : Padala Durga Prasad, S/o. Anjibabu, 17 yrs,
 C/Turpu Kapu, Anaparajupeta, Mallepalli
 village, Gandepalli Mandal. Rider of
 Hero Passion Plus bike
 bearing No. AP 05 BA 7971.

Offence : U/Sec.337 and 338 of IPC

Plea of the juvenile : Not guilty

Finding : Found not guilty

Sentence or Order:

In the result CCL is found not guilty for the offence punishable U/Sec.337 and 338 of IPC and is acquitted U/Sec.255(1) of Cr.PC. The bail bonds of the CCL and his sureties shall stand cancelled after lapse of six months. No property is produced in this case and hence, no property order is passed.

Sd/-Smt. D.Sreedevi
 PRL. MAGISTRATE FOR J J B,

Rajahmahendravaram.

Copy submitted to the Hon'ble Chief Judl. Magistrate Cum-Prl.Senior Civil Judge, Rajahmahendravaram for favour of information

//TRUE COPY//

PRL. MAGISTRATE FOR J J B,
Rajahmahendravaram.