SUPREME COURT OF INDIA

State of Arunachal Pradesh

Vs.

Ramchandra Rabidas @ Ratan Rabidas

Crl.A.No.905 of 2010

(Indu Malhotra and Sanjiv Khanna,JJ.,)

04.10.2019

JUDGMENT

Indu Malhotra,J.,

The Issue which has arisen for consideration in the present Criminal Appeals is whether the Gauhati High Court was justified in issuing directions that road traffic offences shall be dealt with only under the provisions of the Motor Vehicles Act, 1988 ("M.V. Act"), and in holding that in cases of road traffic or motor vehicle offences, prosecution under the provisions of Indian Penal Code,1860 ("IPC") is without sanction of law, and recourse to the provisions of the IPC would be unsustainable in law?

2. The Gauhati High Court, Agartala bench vide the impugned judgment dated 22.12.2008 held that:

> i. Sections 183 and 184 of the M.V. Act, which relate to driving of motor vehicles at excessive speeds and dangerously, and other offences under Chapter XIII of the M.V. Act are compoundable before the Police, or in court, and that no further proceeding shall be taken against the accused after he has pleaded guilty. On this premise, it was held "that the provisions of Cr.P.C must succumb to the statutory provisions to the M.V.Act, and any investigation, inquiry or trial contrary to the same, would be illegal and unsustainable in law". [Para 14 of the impugned judgment.
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> ii. The IPC and Code of Criminal Procedure, 1973 ("Cr.P.C") are placed in Entry No. 1 and 2 of the Concurrent List of the Seventh Schedule to the Constitution of India. The M.V. Act,1988 falls under Entry No. 35 of the Concurrent List. Hence, the status of the M.V. Act is at par with the IPC and Cr.P.C, and it cannot be presumed that M.V. Act is either a subordinate legislation, or inferior to the IPC and Cr.P.C in status. [Para 21 of the impugned judgment]
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> iii. Section 5 of the IPC removes any kind of ambiguity about the conviction and

punishment of offenders under a special enactment, which covers the field. Section 208 of the M.V. Act has laid down a special procedure for disposal of road traffic offences. Hence, recourse to the IPC would offend Section 5 of the IPC. Section 5 of the IPC recognizes the supremacy of the special laws, which cannot be diluted under the garb of Section 26 of the General Clauses Act, 1897. [Paras 24¬26 of the impugned judgment]

iv. The prosecution of road traffic offences under the IPC is not permitted, since it has no sanction of law. The only exception to this rule would be where the offence cannot be adequately punished under the M.V. Act. [Para 24-26 of the impugned judgment]

v. Since road traffic offences can be regulated and adequately dealt with under the provisions of MV Act, resort to the provisions of the IPC, which is a general law should be avoided. [Para 28 of the impugned judgment]

vi. Sections 183 to 188 of the MV Act, which relate to punishment for driving at excessive speed or dangerously or in a drunken condition, etc., are silent about the outcome of the accidents. These penal provisions do not prescribe any separate punishment for causing hurt to people or for damaging any property. However, this does not mean that the Legislature was not aware or totally oblivious to the consequences of dangerous driving while enacting the M.V. Act. [Para 30 of the impugned judgment]

vii. If a person cannot be convicted for causing hurt to any person while driving a motor vehicle in a rash and dangerous manner under the MV Act, then the said offender cannot also be convicted under the IPC, since the IPC does not expressly take within its purview road traffic offences. [Para 30 of the impugned judgment]

viii. To permit the prosecution of offenders under the provisions of any other penal law other than the M.V. Act in cases of motor vehicle offences would amount to overriding the M.V. Act, which is a special enactment framed by Parliament for motor vehicle offences. By invoking provisions of the IPC for motor vehicle offences, the basic character and structure of the M.V. Act would get distorted, and would not help in curbing the rising rate of motor vehicle accidents. [Para 33 of the impugned judgment]

ix. Prosecution of offenders in cases of road traffic accidents must be carried out under the M.V. Act as a general rule subject to one exception i.e to try offenders in cases of culpable homicide not amounting to murder under S. 304 IPC, because sentence of imprisonment of 6 months provided under the M.V. Act appears to be inadequate, going by the rising rate of violent road accidents. The prosecution of offenders under the provisions of the IPC is violative of settled principles of law and contrary to the legislative intent of the M.V. Act. [Para 37 and 37.1 of the impugned judgment]

x. The High Court directed the States of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh, and to issue appropriate directions to all subordinate officers to ordinarily register cases against offenders of motor vehicle accidents only under the provisions of the M.V. Act subject to the exception under S. 304 IPC.

3. The present Special Leave Petitions have been filed by the States of Tripura and Arunachal Pradesh before this Court, wherein vide Orders dated 12.05.2009 and 31.07.2009, the operation of the impugned judgment was stayed. This Court vide Order dated 26.04.2010 granted special leave to appeal, and directed that the stay of the impugned judgment would continue to operate during the pendency of the appeals.

4. Despite service of notice, none appeared for the Respondents. Since there is no contest to the adjudication on the merits of the case, we are not touching upon that part of the judgment.

5. The M.V. Act is a beneficial legislation, the primary objective being to provide a statutory scheme for compensation of victims of motor vehicle accidents; or, their family members who are rendered helpless and disadvantaged by the untimely death or injuries caused to a member of the family, if the claim is found to be genuine. The Act provides a summary procedure for claiming compensation for the loss sustained in an accident, which is otherwise applicable to suits and other proceedings while prosecuting a claim before a civil court.

5.1 The M.V. Act repealed the Motor Vehicles Act, 1939. The need was felt to take into account changes in road transport technology, pattern of passenger and freight movements, development of the road network in the country and particularly improved techniques in motor vehicle management. In *M.K. Kunhimohammed v. P.A. Ahmedkutty and Ors*[1]. , this Court made suggestions for raising the limit of compensation payable in motor vehicle accidents wherein death and permanent disablement had occurred, even in the event of there being no fault on the part of the person driving the offending vehicle, and also in hit and run accidents. The said suggestions were taken into consideration by the Legislature and incorporated in the M.V. Act, 1988.

5.2 Chapter XIII of the M.V. Act, 1988 deals with "Offences, Penalties and Procedure". It deals with offences relating to contraventions of the provisions of the M.V. Act, or any rule, regulation or notification made thereunder. It primarily deals with offences relating to licenses, driving of vehicles by unauthorized persons, control of traffic, maintenance of motor vehicles, using a vehicle in an unsafe condition, or without registration or permit, driving beyond speed limits, driving dangerously or driving by a drunken person, or by a person under the influence of drugs, etc.

5.3 The relevant provisions of the M.V. Act,1988 (as they stood at the time of commission of the offence in question) which are necessary to advert to are extracted herein below:

183. Driving at excessive speed, etc. - (1) Whoever drives a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with fine which may extend to four hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to one thousand rupees.

(2) Whoever causes any person who is employed by him or is subject to his control in driving to drive a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with fine which may extend to three hundred rupees, or, if having been previously convicted of an offence under this sub-section, is again convicted of an offence under this subsection, with fine which may extend to five hundred rupees.

(3) No person shall be convicted of an offence punishable under subsection (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical device.

(4) The publication of a time table under which, or the giving of any direction that any journey or part of journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without contravening the speed limits referred to in section 112 be prima facie evidence that the person who published the time table or gave the direction has committed an offence punishable under sub-section (2).

184. Driving dangerously — Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable for the first offence with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, and for any second or subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

185. Driving by a drunken person or by a person under the influence of drugs. - Whoever, while driving, or attempting to drive, a motor vehicle,--

(a) has, in his blood, alcohol exceeding 30 mg. per 100 ml. of blood detected in a

test by a breath analyser, or

(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle. shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offence with imprisonment for term which may extend to two years, or with fine which may extend to three thousand rupees, or with both Explanation.-- For the purposes of this section, the drug or drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle.

187. Punishment for offences relating to accident. - Whoever fails to comply with the provisions of clause (c) of sub-section (1) of section 132 or of section 133 or section 134 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both or, if having been previously convicted of an offence under this section, he is again convicted of an offence under this section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

208. Summary disposal of cases - (1) The Court taking cognizance of any offence (other than an offence which the Central Government may by rules specify in this behalf) under this Act,--

(i) may, if the offence is an offence punishable with imprisonment under this Act; and

(ii) shall, in any other case, state upon the summons to be served on the accused person that he--

(a) may appear by pleader or in person; or

(b) may, by a specified date prior to the hearing of the charge, plead guilty to the charge and remit to the Court, by money order, such sum (not exceeding the maximum fine that may be imposed for the offence) as the Court may specify, and the plea of guilt indicated in the money order coupon itself: Provided that the Court shall, in the case of any of the offences referred to in sub-section (2), state upon the summons that the accused person, if he pleads guilty, shall so plead in the manner specified in clause (b) and shall forward his driving licence to the Court with his letter containing such plea.

(2) Where the offence dealt with in accordance with sub-section (1)is an offence specified by the Central Government by rules for the purposes of this sub-section, the Court shall, if the accused person pleads guilty to the charge and forward his

driving licence to the Court with the letter containing his plea, make an endorsement of such conviction on his driving licence.

(3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (1), or as the case may be, sub¬sections (1) and (2), no further proceedings in respect of the offence shall be taken against him nor shall he be liable, notwithstanding anything to the contrary contained in this Act, to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.

209. Restriction on conviction. - No person prosecuted for an offence punishable under section 183 or section 184 shall be convicted unless--

(a) he was warned at the time the offence was committed that the question of prosecuting him would be taken into consideration, or

(b) within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or

(c) within twenty-eight days of the commission of the offence, a summons for the offence was served on him: Provided that nothing, in this section shall apply where the Court is satisfied that--

(a) the failure to serve the notice or summons referred to in this sub-section was due to the fact that neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time, or

(b) such failure was brought about by the conduct of the accused

5.4 Section 183 provides for the offence of driving a vehicle at excessive speed in contravention of the speed limits referred in Section 112 of the M.V. Act; while Section 184 M.V. Act deals with the offence of driving dangerously. In order to constitute an offence under Section 184, the following ingredients are required to be proved: (a) the accused should be driving a motor vehicle; (b) the vehicle should be driven at a speed or in a manner which is dangerous to the public having regard to all the circumstances of a case, including the nature, condition and use of the place where the vehicle is driven and the volume of traffic at the time of the accident or which might reasonably be expected to be in the place. Section 183 and 184 must be read with Section 209 of M.V. Act, which provides that a warning, notice or summons, is mandatorily required to be given for an offence punishable under Section 183 or 184.

5.5 Section 185 of the M.V. Act pertains to the offences of driving after consuming alcohol, or driving under the influence of drugs. Any person who while driving or attempting to drive, (a) has alcohol exceeding 30 mg. per 100 ml. present in his blood, detected by a breath analyser; or (b) is under the influence of a drug to such an extent that he is incapable of exercising proper control over the vehicle, shall be guilty of an offence under Section 185 of the M.V. Act.

5.6 Section 187 pertains to offences arising from accidents. The offence is for breach of duty and failure to comply with the provisions of Section 132(1)(c) or Section 133 or Section 134 of the M.V. Act. Clause (c) of Section 132 (1) was omitted by S. 40 of the Motor Vehicles (Amendment) Act, 1994 (w.e.f. 14-11¬1994); Section 133 relates to the duty of the owner to give information regarding the name and address of, and the licence held by, the driver or conductor, who is accused of any offence under this Act on the demand of any police officer; while Section 134 relates to the duty of the driver in case of an accident and injury to a person, to take all reasonable steps to secure medical attention for the injured person, by conveying him to the nearest medical practitioner or hospital, and providing necessary information to the police and insurer of the vehicle about the accident.

5.7 The offences under Chapter XIII of the MV Act provide a summary procedure for disposal of cases, which are compoundable in nature under Section 208 (3) of the M.V. Act. Section 208(3) provides that if an accused pleads guilty and deposits the fine imposed, then "no further proceeding in respect of offence shall be taken against him nor shall he be liable, notwithstanding anything to the contrary contained in this Act, to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty

5.8 The IPC, on the other hand, is punitive and deterrent in nature. The principal aim and object is to punish offenders for offences committed under the IPC. The relevant provisions of the IPC which are necessary to advert to are extracted herein below:

5. Certain laws not to be affected by this Act .- Nothing in this Act shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the Government of India or the provisions of any special or local law.

279. Rash driving or riding on a public way.- Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

304. Punishment for culpable homicide not amounting to murder . Whoever

commits culpable homicide not amounting to murder, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

304A. Causing death by negligence - Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

337. Causing hurt by act endangering life or personal safety of others. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

338. Causing grievous hurt by act endangering life or personal safety of others. - Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

5.9 Section 279 IPC falls under Chapter XIV - "Offences affecting Public Health, Safety, Convenience, Decency And Morals", and provides for offences relating to rash and negligent driving which endanger human life. Section 279 IPC makes rash driving, or riding on a public road, punishable if such rash driving or riding endangers human life, or is likely to cause hurt or injury to any person. It is the rash or negligent manner of driving or riding which endangers human life, or is likely to cause hurt or injury to any person, which constitutes an offence under Section 279 IPC.

5.10 Sections 304 Part II, 304A, 337 and 338 IPC fall under Chapter XVI - "Offences Affecting the Human Body" which makes provision for offences relating to culpable homicide not amounting to murder, causing death by negligence by doing any rash or negligent act, and causing hurt or grievous hurt, by endangering the life or personal safety of others.

5.11 Where the rash or negligent driving results in hurt or grievous hurt being caused to any person, an offence under Section 337 or 338 IPC is committed.

5.12 Where the rash or negligent driving, results in the death of a person, without

the knowledge that the said act will cause death, Section 304A IPC would be applicable. In other words, Section 304A applies to cases where there is no intention to cause death, and no knowledge that the act done in all probability will cause death. Negligence and rashness are essential elements of Section 304A. The three ingredients of Section 304-A, which are required to be proved are: (1) the death of a human being; (2) the accused caused the death; and (3) the death was caused by the doing of a rash or negligent act, though it did not amount to culpable homicide of either description. The requirement of culpable rashness under S.304A IPC is more drastic than negligence sufficient under the law of tort to create liability. Criminal or culpable rashness means hazarding a dangerous or wanton act with the knowledge that it is dangerous or wanton, and the further knowledge that it may cause injury, but done without any intention to cause injury or knowledge that the act would probably cause.

5.13 When a person drives a vehicle so recklessly, rashly or negligently that it causes the death of a person, and of which he had knowledge as a reasonable man, that such act was dangerous enough to cause death, he may be attributed with the knowledge of the consequence, and may held liable for culpable homicide not amounting to murder, which is punishable under Section 304 Part II IPC.

5.14 Sections 279, 304-A, 337 and 338 IPC may be invoked only if the act of the accused is a negligent or rash act. It is manifest from the scheme of Sections 279, 304-A, 336, 337 and 338 IPC that these offences are punishable because of the inherent danger of the acts specified therein, irrespective of the knowledge or intention of the offender. With respect to Section 304 Part II IPC, the prosecution has to prove that the death of the person was caused by the act of the accused, and that he had knowledge that such act was likely to cause death. To constitute an offence under this Section, the knowledge of the offender as required under Section 300 IPC is to be proved and established.

6. In our view there is no conflict between the provisions of the IPC and the MV Act. Both the statutes operate in entirely different spheres. The offences provided under both the statutes are separate and distinct from each other. The penal consequences provided under both the statutes are also independent and distinct from each other. The ingredients of offences under the both statutes, as discussed earlier, are different, and an offender can be tried and punished independently under both statutes. The principle that the special law should prevail over the general law, has no application in cases of prosecution of offenders in road accidents under the IPC and M.V. Act.

7. It is pertinent to mention that there is no provision under the M.V. Act which separately deals with offences causing death, or grievous hurt, or hurt by a motor vehicle in cases of motor vehicle accidents. Chapter XIII of the M.V. Act is silent about the act of rash and negligent driving resulting in death, or hurt, or grievous hurt, to persons nor does it prescribe any separate punishment for the same; whereas Sections 279, 304 Part II, 304A, 337 and 338 of the IPC have been specifically framed to deal with such offences.

8. Section 26 of the General Clauses Act, 1897 provides, "Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence." It is well settled that an act or an omission can constitute an offence under the IPC and at the same time, be an offence under any other law. The finding of the High Court that the prosecution of offenders under two statutes i.e. the M.V. Act and the IPC, is unsustainable and contrary to law, is therefore, set aside.

A similar issue arose in the case of *T.S. BaUah v. T.S. Rangachari*[2], wherein the appellant was prosecuted both under Section 177 of the IPC, and Section 52 of the Income Tax Act, 1922. This Court held as follows:

> "6. We proceed to consider the next question arising in this case viz. whether the appellant can be prosecuted both under Section 177 of the Indian Penal Code and Section 52 of the 1922 Act [Income Tax Act, 1922] at the same time. It was argued on behalf of the appellant that in view of the provisions of Section 26 of the General clauses Act (Act 10 of 1897) the appellant can be prosecuted either under Section 52 of the 1922 Act or under Section 177 of the Indian Penal Code and not as correct. Section 26 of the General clauses Act states:
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> "26. Provision as to offences punishable under two or more enactments.— Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence."
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> A plain reading of the section shows that there is no bar to the trial or conviction of the offender under both enactments but there is only a bar to the punishment of the offender twice for the same offence. In other words, the section provides that where an act or omission constitutes an offence under two enactments, the offender may be prosecuted and punished under either or both the enactments but shall not be liable to be punished twice for the same offence. We accordingly reject the argument of the appellant on this aspect of the case."
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> [emphasis supplied]
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> Similarly, in *State of Maharashtra v. Sayyed Hassan* , the accused was prosecuted under Sections 26 and 30 of the Food and Safety Standards Act, 2006 as well as Sections 188, 272, 273 and 328 of the IPC for transportation and sale of prohibited gutka./pan masala. The High Court held that Section 55 of the Food and Safety Standards Act, 2006 being a specific provision made in a special enactment, Section 188 of the IPC was inapplicable.
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> The Supreme Court remanded the matter to the High Court, and held that :

> "8. There is no bar to a trial or conviction of an offender under two different enactments, but the bar is only to the punishment of the offender twice for the offence. Where an act or an omission constitutes an offence under two enactments, the offender may be prosecuted and punished under either or both enactments but shall not be liable to be punished twice for the same offence. The same set of facts, in conceivable cases, can constitute offences under two different laws. An act or an omission can amount to and constitute an offence under the IPC and at the same time, an offence under any other law. The High Court ought to have taken note of Section 26 of the General Clauses Act, 1897 which reads as follows:
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> "Provisions as to offences punishable under two or more enactments -Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence."

9. In Hat Singh's case this Court discussed the doctrine of double jeopardy and Section 26 of the General Clauses Act to observe that prosecution under two different Acts is permissible if the ingredients of the provisions are satisfied on the same facts. While considering a dispute about the prosecution of the Respondent therein for offences under the Mines and Minerals (Development and Regulation) Act 1957 and Indian Penal Code, this Court in State (NCT of Delhi) v. Sanjay held that there is no bar in prosecuting persons under the Penal Code where the offences committed by persons are penal and cognizable offences. A perusal of the provisions of the FSS Act would make it clear that there is no bar for prosecution under the IPC merely because the provisions in the FSS Act prescribe penalties. We, therefore, set aside the finding of the High Court on the first point."

[emphasis supplied]

9. The legislative intent of the MV Act, and in particular Chapter XIII of the MV Act, was not to override or supersede the provisions of the IPC in so far as convictions of offenders in motor vehicle accidents are concerned. Offences under Chapter XIII of the MV Act, cannot abrogate the applicability of the provisions under Sections 297, 304, 304A, 337 and 338 of the IPC. The offences do not overlap, and therefore, the maxim of "generalia specialibus nonderogant" is inapplicable, and could not have been invoked. The offences prescribed under the IPC are independent of the offences prescribed under the M.V. Act. It cannot be said that prosecution of road traffic/motor vehicle offenders under the IPC would offend Section 5 of the IPC, as held by the High Court, in so far as punishment for offences under the M.V. Act is concerned.

10. Considering the matter from a different perspective, offences under Chapter XIII of the MV Act are compoundable in nature in view of Section 208(3) of the MV Act, whereas offences under Section 279, 304 Part II and 304A IPC are not. If the IPC gives way to the MV Act, and the provisions of CrPC succumb to the provisions of the MV Act as held by the High Court, then even cases of culpable homicide not amounting to murder, causing death, or grievous hurt, or simple hurt by rash and negligent driving, would become

compoundable. Such an interpretation would have the consequence of letting an offender get away with a fine by pleading guilty, without having to face any prosecution for the offence committed.

11. This Court has time and again emphasised on the need to strictly punish offenders responsible for causing motor vehicle accidents. With rapidly increasing motorisation, India is facing an increasing burden of road traffic injuries and fatalities. The financial loss, emotional and social trauma caused to a family on losing a bread winner, or any other member of the family, or incapacitation of the victim cannot be quantified.

12. The principle of proportionality between the crime and punishment has to be borne in mind. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence. The maximum imprisonment for a first time offence under Chapter XIII of the M.V. Act, is up to only six months; whereas the maximum imprisonment for a first time offence under the IPC in relation to road traffic offences can go upto 10 years under Section 304 Part II of the IPC. The sentence imposed by the courts should be commensurate with the seriousness of the offence, and should have a deterring effect on wrong-doers. The punishment of offenders of motor vehicle accidents under the IPC is stricter and proportionate to the offence committed, as compared with the M.V. Act.

13. We thus hold that a prosecution, if otherwise maintainable, would lie both under the IPC and the MV Act, since both the statutes operate with full vigour, in their own independent spheres. Even assuming that some of the provisions of the MV Act and IPC are overlapping, it cannot be said that the offences under both the statutes are incompatible.

14. The High Court has given a contradictory finding by holding on the one hand that the provisions of the Cr.P.C must succumb to the provisions of the M.V. Act, as executive authorities cannot take away a beneficial provision under a special law enacted by Parliament (para 14 of the impugned judgment), while on the other hand, it has opined that the M.V. Act is not a complete code in itself, and there is no complete bar to investigate road traffic offences under the provisions of Cr.P.C. (para 23 of the impugned judgment).

15. In our considered view the position of law is well-settled. This Court has consistently held that the M.V. Act,1988 is a complete code in itself in so far as motor vehicles are concerned.13 However, there is no bar under the M.V. Act or otherwise, to try and prosecute offences under the IPC for an offence relating to motor vehicle accidents. On this ground as well, the impugned judgment is liable to be set aside. *National Insurance Co. Ltd. v. Annappa Irappa Nesaria*[3]*, Gottumukkala Appala Narasimha Raju v. National Insurance Co. Ltd*[4]*.,*

16.The object behind punishing persons found guilty of causing motor vehicle accidents has been succinctly stated by this Court in Dalbir Singh vs. State of Haryana in the following words:_

> "11. Courts must bear in mind that when any plea is made based on Section 4 of the

PO Act for application to a convicted person under Section 304-A IPC, that road accidents have proliferated to an alarming extent and the toll is galloping day by day in India, and that no solution is in sight nor suggested by any quarter to bring them down. When this Court lamented two decades ago that "more people die of road accidents than by most diseases, so much so the Indian highways are among the top killers of the country ", the saturation of accidents toll was not even half of what it is today. So V.R. Krishna Iyer, J., has suggested in the said decision [Rattan Singh v. State of Punjab, (1979) 4 SCC 719 : 1980 SCC (Cri) 17] thus: (SCC p. 720, para 3) "Rashness and negligence are relative concepts, not absolute abstractions. In our current conditions, the law under Section 304-A IPC and under the rubric of negligence, must have due regard to the fatal frequency of rash driving of heavy duty vehicles and of speeding menaces."

12. In *State of Karnataka v. Krishna*[5] this Court did not allow a sentence of fine, imposed on a driver who was convicted under Section 304-A IPC to remain in force although the High Court too had confirmed the said sentence when an accused was convicted of the offence of driving a bus callously and causing the death of a human being. In that case this Court enhanced the sentence to rigorous imprisonment for six months besides imposing a fine.

13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the PO Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident: or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence: and lastly, that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the he cannot escape from a jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles. "

[emphasis supplied]

In *Guru Basavaraj v. State of Karnataka*[6] , the Court opined that there is a constant concern of the Court on imposition of adequate sentence in respect of commission of offences in cases of motor vehicle accidents. In that case, the appellant was found guilty for the offences punishable under Sections 337, 338, 279 and 304-A IPC and sentenced to undergo simple imprisonment for six months along with fine. The Court held that:

> "32. We may note with profit that an appropriate punishment works as an eye-opener for the persons who are not careful while driving vehicles on the road and exhibit a careless attitude possibly harbouring the notion that they would be shown indulgence or lives of others are like 'flies to the wanton boys'. They totally forget that the lives of many are in their hands, and the sublimity of safety of a human being is given an indecent burial by their rash and negligent act.
>
> 33. There can hardly be any cavil that there has to be a proportion between the crime and the punishment. It is the duty of the court to see that appropriate sentence is imposed regard being had to the commission of the crime and its impact on the social order. The cry of the collective for justice which includes adequate punishment cannot be lightly ignored."
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> [emphasis supplied]

17. In view of the above discussion, we set aside the directions issued by the Gauhati High Court to the States of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh to issue appropriate instructions to their subordinate officers to prosecute offenders in motor vehicle accidents only under the provisions of the Motor Vehicles Act,1988 and not the IPC.

18. The Criminals Appeals are allowed in the aforesaid terms. The interim order passed on 26.04.2010 is made absolute. All pending Applications, if any, are accordingly disposed of. Ordered accordingly.

Judgment Referred.

[1]*(1987) 4 SCC 0284*
[2]*(1969) 3 SCR 0065*
[3]*(2008) 3 SCC 0464*
[4]*(2007) 13 SCC 0446*
[5]*(1987) 1 SCC 0538*
[6]*(2012) 8 SCC 0734*