



Crl.R.C.(MD).No.315 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.12.2023

Pronounced on:19.01.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.315 of 2023

and

Crl.M.P(MD).Nos.4546 and 10227 of 2023

M.Kesavan

... Petitioner/Appellant/Sole Accused

Vs.

The State Represented by
Inspector of Police,
Mayanur,
Karur District
(Cinthamanipatti Police Station)
Cr.No.9/2018

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to set-aside the judgment of the learned Principal District Judge, Karur, in Crl.ANo.46 of 2021, dated 24.08.2022, confirming the Judgment of the learned Judicial Magistrate No.1, Kulithalai, in C.C.No.54 of 2018, dated 17.11.2021, convicting the accused and sentencing him to undergo 6 months simple imprisonment for the offence under Sections 279 & 304(A) IPC and also imposing a fine of Rs.25,000/- and in default, to undergo two weeks simple imprisonment and allow this Revision Petition and acquit the petitioner.



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For Petitioner : Mr.S.Muthukrishnan

For Respondent : Mr.R.Sivakumar,
Government Advocate(Crl.Side)

ORDER

The petitioner filed this revision case challenging the following conviction and sentence passed against him in Crl.A.No.46 of 2021 dated 24.08.2022, by the learned Principal District Judge, Karur, confirming the Judgment of the learned Judicial Magistrate No.1, Kulithalai, in C.C.No.54 of 2018, dated 17.11.2021.

<i>Offence under Section</i>	<i>Trial Court</i>	<i>Appellate Court</i>
279 of IPC	To undergo 6 months of simple imprisonment	To undergo 6 months of simple imprisonment
304(A) of IPC	To undergo 6 months of simple imprisonment	To undergo 6 months of simple imprisonment
Fine amount	Rs.25,000/- in default to undergo two weeks of simple imprisonment.	Rs.25,000/- in default to undergo two weeks of simple imprisonment.

2.1. According to the prosecution, on 15.01.2018 at about 12.45 p.m, when the deceased, his daughter/P.W.1 and his wife were returning to their house by walking along the left side of the road from North to South, the petitioner drove his Bolero Max truck plus bearing registration No.TN-57-AP-1992 with high speed and without following the traffic rules and without blowing horn, dashed



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P.W1 and her father. P.W.1's father sustained grievous injuries on his head and both thigh and P.W.1 sustained injuries. Both were taken to the hospital and P.W. 1's father was declared as dead. P.W.1 was treated as out patient and gave a complaint/Ex.P1 before the respondent police and the same was registered in Crime No.9 of 2018 and an investigation was conducted and final report was filed before the learned Judicial Magistrate No.I, Kulithalai, for the offence under Sections 279 and 304(A) of IPC. The learned Judicial Magistrate taken the same on file in CC.No.54 of 2018 and summoned the accused. After appearance of the accused, the learned Judicial Magistrate furnished the copy under section 207 Cr.PC., Thereafter, the learned trial Judge, framed the charges and questioned the accused. The accused denied the charges and pleaded not guilty. Therefore, the learned trial judge, commenced the trial.

2.2. The Prosecution to prove the case, examined P.W.1 to P.W.10 and marked Ex.P.1 to Ex.P.19. Thereafter, the learned trial judge put to the accused about the incriminating material found against him on the basis of the above prosecution evidence and documents under Section 313 of Cr.P.C., and the petitioner denied the same as false and thereafter, posted for the defence side witness. Neither witness was examined on the side of the petitioner nor the



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documents were marked on the side of the petitioner.

2.3. After considering the evidence, the learned Judicial Magistrate convicted the petitioner under sections 279 and 304(A) of IPC and sentenced him to undergo 6 months Simple Imprisonment and to pay a fine of Rs.25,000/- and in default, to undergo 2 weeks Simple Imprisonment.

2.4. Challenging the same, he filed an appeal before the learned Principal District Judge, Karur, in Crl.A.No.46 of 2021 and the same was dismissed by the order dated 24.08.2022. Challenging the same, he filed the present revision.

3. The learned counsel for the petitioner submitted that the petitioner did not dispute the involvement of his vehicle at the time of occurrence and he disputed the allegation of rashness and negligence on his part. He drove the vehicle following the traffic rules without any rashness but, the deceased without noticing the vehicle suddenly fell into the vehicle. He specifically took a stand that due to the negligence on the part of the deceased, the accident happened. Hence, he seeks for acquittal.



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4. The learned Government Advocate (Crl.Side) appearing for the State submitted that the prosecution clearly proved the negligence and rashness on the part of the petitioner. P.W.1 clearly deposed that when the deceased and herself were walking on the left side of the road, the petitioner drove his vehicle in a rash and negligent manner and dashed behind the deceased. Hence, he sustained injuries and died. The said evidence of P.W.1 is corroborated with P.W.2's evidence. Even though, the independent witness, who witnessed to the preparation of mahazar turned hostile, the evidence of P.W.1 is cogent and corroborated with the evidence of P.W.2. Hence, the prosecution proved the case beyond reasonable doubt. Hence, he seeks for dismissal of this Revision.

5.This Court considered the rival submissions made on either side and perused the materials available on record and the impugned judgment.

6. P.W.1 clearly deposed about the accident. When she and her deceased father proceeded on the left side of the North to South road, the petitioner drove his Bolero Truck Max Plus with rash and negligent manner without blowing horn and dashed her father and she also sustained injuries. The father was taken to the hospital and he was declared as dead in the hospital and she took treatment



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as outpatient and lodged the complaint. The evidence was corroborated by P.W.2. P.W.3 a rustic witness stated that when he was standing near the Veppankudi tank, the petitioner drove his vehicle and dashed P.W.1 and deceased. The said contradiction was not brought properly as laid down by the Hon'ble Supreme Court in the case of ***V.K.Misra Vs. State of Uttarakhand*** reported in **2015 9 SCC 588** and hence, the said contradiction of P.W.3 is not material as correctly held by the learned trial Judge. Even without P.W.3's evidence, P.W.1 and P.W.2 have deposed before the court in a cogent manner and their evidence are trustworthy and the same was properly appreciated by the Court below. P.W.10/Investigation Officer failed to collect the wound certificate of P.W.1 and the same may be a lapse on the part of the investigating officer but the same does not anyway impeach the evidence of P.W.1 and P.W.2. More particularly, in this case, the petitioner admitted the occurrence and only disputed the rashness and negligence on his part. This Court re-appreciated the entire records and found that there is no reason to disbelieve the evidence of P.W.1 and P.W.2. Some immaterial discrepancy and infirmity tend to occur due to the examination of the witnesses after a considerable delay from the date of the occurrence. Under the above circumstances, this court finds no reason to interfere with the said concurrent finding recorded by both the Courts below. Further this Court also finds no



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perversity in the concurrent finding recorded by both the Courts below to exercise the revisional jurisdiction under Section 397 r/w 401 of Cr.P.C. Hence, this court finds no reason to interfere with the findings of both the Courts below.

7. Accordingly, the conviction and sentence imposed by the the learned Principal District Judge, Karur, in Crl.A.No.46 of 2021, dated 24.08.2022, confirming the order passed by the learned Judicial Magistrate No.1, Kulithalai, in C.C.No.54 of 2018, dated 17.11.2021, is hereby confirmed and the Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petitions are closed.

19.01.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss/sbn



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To

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1. The Principal District Judge,
Karur.
2. The Judicial Magistrate No.1,
Kulithalai.
3. The Inspector of Police,
Mayanur, Karur District
Cinthamanipatti Police Station.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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