

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

Crl.Rev.Pet.No. 2239 of 2003 ()

**AGAINST THE JUDGMENT IN CRA No.260/2001 OF THE IInd ADDL. SESSIONS COURT,
PALAKKAD DATED 07-07-2003**

**AGAINST THE JUDGMENT IN CC No.475/1999 of J.M.F.C.-III, PALAKKAD
DATED 04-05-2001**

REVISION PETITIONER:

**NARAYANAN,
S/O.KRISHNAN, KARIJAMTHODI,
COYALMANNAM, ALATHUR TALUK,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.T.K.CHINNAN
SRI.RUPESH V.R.**

RESPONDENT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30-
06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

STK

P.D. RAJAN, J.

Crl. R.P. No.2239 of 2003

Dated this the 30th day of June, 2015

ORDER

This revision petition is preferred against the judgment in Crl. Appeal No.260/2001 of the Sessions Court, Palakkad in which the conviction and sentence of the trial court was confirmed by the appellate court. The revision petitioner was accused in C.C.No.475/99 of the Judicial 1st Class Magistrate Court-III, Palakkad for offence under Section 279 and 338 of the Indian Penal Code and sentenced to undergo simple imprisonment for 3 months u/s.279 IPC and simple imprisonment for 4 months under Section 338 IPC.

2. The facts necessary for the indictment were that on 15.07.99 at 14.45 hours the revision petitioner was driving a bus in a rash and negligent manner along the Manappullikavu-Palakkad public road and hit against the backside of an autorickshaw. Due to that impact the autorickshaw moved forward and hit on the rear side of a stationary lorry. As a result, PW1 sustained serious

injuries and immediately he was removed to hospital. On the basis of information, the Sub Inspector of Police, Traffic Unit, Palakkad registered crime No.402/99 and after investigation, laid charge before Judicial 1st Class Magistrate -III, Palakkad. Prosecution examined PW1 to PW10 and admitted Ext.P1 to Ext.P9 in evidence. After sifting and weighing the evidence on record, the trial court convicted him. Against that he approached the appellate court.

3. The learned counsel appearing for the petitioner contended that the revision petitioner is no more and after the death of the revision petitioner, no abatement. This position has been explained by the apex court in **State of Kerala v. Narayani Amma AIR 1962 SC 1530** held that:

“4. As regards the revisional jurisdiction of the High Court there is no provision similar to S.431. Nor is there any provision whether a revisional application can be or cannot be made in respect of an order of conviction when the convicted person is dead. We cannot but notice the important distinction that while the

appellate jurisdiction can be exercised only after an appeal is filed by the convicted person-or against an order of acquittal under S.411 or S.417, there is no such limitation on the Court's revisional jurisdiction.”

4. In this context, I have considered whether there is any illegality or wrong appreciation made by the trial court at the time of convicting the revision petitioner. It is pertinent to note that the injured was examined as PW1 in the trial court. He deposed that he sustained serious injuries including a fracture on his leg. Immediately after the incident, he was admitted in the hospital and taken treatment from there. Ext.P2 is the wound certificate in which fracture was noticed by the doctor who treated him at Medical College Hospital, Thrissur. Since the matter has been settled by the parties, he turned hostile at the time of his examination. PW2 gave Ext.P1 statement to the police. PW2 who travelled in the autorickshaw admitted that he saw the incident and identified the revision petitioner. PW3 who is the driver of the lorry also identified the driver of the offending vehicle. PW4, the

cleaner of the lorry also identified the driver and deposed that the accident occurred due to the rash and negligent driving by the revision petitioner.

5. In the light of the above oral and documentary evidence, the trial court was of the view that the accident was due to the rash and negligent driving by the revision petitioner. PW8 who is the Head Constable attached to the Town Traffic Police Station recorded Ext.P1 statement of the injured. PW9, registered the FIR and PW10 conducted the investigation. On 16.07.99, he arrested the revision petitioner and enlarged him on bail. The bus conductor who was examined as PW5 produced the trip sheet of the bus to prove the identity of the driver of the bus.

6. Analyzing the evidence of the occurrence witnesses, the trial court was of the view that rash and negligent driving was proved and I find no illegality or irregularity in the findings of the courts below. Therefore, the conviction and sentence passed by the trial court is only be confirmed.

There is no merit in this revision petition and it is dismissed accordingly.

STK

Sd/-
P.D. RAJAN,
JUDGE

//TRUE C OPY//

P.A. TO JUDGE