

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

Cr1.Rev.Pet.No. 51 of 2009 ()

JUDGMENT IN Cr1.A 306/2007 OF ADDITIONAL SESSIONS COURT-II,
MAVELIKKARA

JUDGMENT IN CC 757/2006 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
KAYAMKULAM

REVISION PETITIONER/APPELLANT/ ACCUSED:

VIJAYAN, S/O.KUNJUPILLAI, BEENA NIVAS,
BACK SIDE OF CIVIL STATION, KAIKULANGARA WARD, KOLLAM.

BY ADVS.DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR

RESPONDENT(S)/STATE & COMPLAINANT:

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
2. THE STATION HOUSE OFFICER, ALAPPUZHA
NORTH POLICE STATION, ALAPPUZHA.

R1 BY ADV. PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 03-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.51 of 2009

Dated this the 3rd day of November, 2015

ORDER

The revision petitioner is the accused in C.C.No.757 of 2006 on the files of the court of the Judicial Magistrate of First Class, Kayamkulam.

2. The trial court convicted the revision petitioner under Sections 279, 337 and 304 A IPC and sentenced him thereunder to simple imprisonment for three months under Section 279 IPC, simple imprisonment for three months under Section 337 IPC and simple imprisonment for six months under Section 304 A IPC. The appeal filed against the said conviction and sentence, was dismissed. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard.

4. The prosecution allegation is that on 31.5.2005 at 9.30 p.m., the revision petitioner drove lorry bearing registration No.KL-11/A 5575 in a rash and negligent manner

along the National Highway, endangering human life and when it reached near Thumboli Junction, it hit against the goods autorickshaw bearing registration No.KL-3/L 2898 and as a result, the driver of the autorickshaw and two other persons sustained injuries and the driver of the autorickshaw succumbed to the injuries.

5. Before the trial court, PW1 to PW7 were examined and Exts.P1 to P9 were marked for the prosecution. No evidence was adduced on the side of the revision petitioner.

6. PW1 and PW2 were the passengers in the autorickshaw, who stated about the incident in tune with the prosecution case. PW4 is an independent witness, who also supported the evidence of PW1 and PW2 in all material aspects. PW1, PW2 and PW4 also identified the revision petitioner as the driver of the vehicle involved in the case. The evidence of PW1, PW2 and PW4 would show that the accident occurred due to the rash and negligent driving of the vehicle by the revision petitioner.

7. The courts below, after evaluating the oral and

documentary evidence adduced by the prosecution, concurrently found that the revision petitioner committed the offence under Sections 279, 337 and 304 A IPC. Since there is concurrent finding on facts, this court will not be justified in interfering with the same, unless the finding is perverse or incorrect. No circumstance has been brought to my notice to indicate that the concurrent finding by the courts below is perverse or incorrect. In the said circumstances, the concurrent finding by the courts below that the revision petitioner committed the offence under Sections 279, 337 and 304 A IPC does not warrant any interference by this Court.

8. As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. It has been submitted by the learned counsel for the petitioner that the revision petitioner is presently aged 67 years. He has also lost the sight of both eyes to a considerable extent.

Considering the facts and circumstances of the case, including the submission of the learned counsel for the revision petitioner, I am of the view that the sentence awarded by the

courts below can be modified and reduced to simple imprisonment for 45 days under Section 304 A IPC, simple imprisonment for one month under Section 279 IPC and simple imprisonment for one month under Section 337 IPC, to secure the ends of justice. The sentence shall run concurrently. Accordingly, I order so.

In the result, this revision petition stands allowed in part, confirming the verdict of guilty and conviction passed by the courts below under Sections 279, 337 and 304 A IPC and modifying the sentence as above.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

ScI/4.11.2015

True Copy

PA to Judge