

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2015

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THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1012 of 2009

S.Subramanian

.. Petitioner/Accused

Versus

State rep. by
The Sub-Inspector of Police
Karimangalam Police Station
Dharmapuri District.

.. Respondent /Complainant

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. against the judgment dated 02.09.2009 in C.A.No.8 of 2009 on the file of the Principal District and Sessions Judge, Dharmapuri, confirming the order dated 22.05.2009 made in C.C. No. 206 of 2004 on the file of the District Munsif-cum-Judicial Magistrate, Palacode.

For Petitioner : No Appearance

For Respondent : Mr.V.Arul
Government Advocate (Crl.side)

ORDER

This Criminal Revision Case is filed against the judgment dated 02.09.2009 in C.A.No.8 of 2009 on the file of the Principal District and Sessions Judge, Dharmapuri, confirming the order dated 22.05.2009 made in C.C.No.

206 of 2004 on the file of the District Munsif-cum-Judicial Magistrate, Palacode.

2. In spite of several adjournments, neither the petitioner's counsel nor petitioner were present today even though the case is posted under the caption 'For Dismissal'. Hence, the matter is taken up for final disposal to pass orders on merits as per the decision rendered in **K.S.Panduranga vs. State of Karnataka** reported in **2013(3) SCC 721**.

3. According to the respondent/complainant, on 18.06.2004 at about 06.45p.m., the accused while driving the bus had tried to overtake the motor cycle drove in a rash and negligent manner and dashed against the same. Due to which, the rider of the motor cycle as well as the pillion rider sustained grievous injuries and the rider of the vehicle died. Hence, a case has been registered against the accused for the offence punishable under Sections 279, 337, 304(A) of IPC. After investigation, the respondent filed final report which was taken on file in C.C.No.206 of 2004 on the file of the District Munsif-cum-Judicial Magistrate, Palacode. After analysing the oral and documentary evidence the court below had convicted the accused for the offence under Sections 279 of IPC and sentenced to pay a fine of Rs.500/- in default to undergo simple imprisonment for three weeks and under Section 337 of IPC sentenced to pay a fine of Rs.500/- in default to undergo simple imprisonment for three weeks and under Section 304(A) of IPC sentenced to undergo simple

imprisonment for six months and to pay a fine of Rs,3,000/- in default to undergo simple imprisonment for two months, which came to be confirmed by the Appellate Court, against which, the present Criminal Revision Case has been filed by the accused.

4. The first ground raised in this revision is that the courts below failed to see that if the sentences were confirmed, the accused being a government servant will lose his job. The next ground raised is that there are material contradictions in the case and the court below failed to see that the rider of the vehicle was not holding a valid driving licence.

5. Mr.V.Arul, learned Government Advocate appearing for the respondent/complainant would contend that the court below only after analysing the evidence correctly had convicted the accused. It is pertinent to note that the motor vehicle inspector has given a report that the accident had not happened due to any mechanical defect and the deposition of P.W.1 who has stated that the accident had occurred due to the rash and negligent driving of the driver who tried to overtook the offending vehicle and the court below only after taking into consideration the above aspects has awarded the sentence and hence, prayed for the dismissal of the Criminal Revision Case.

6. Heard the learned Government Advocate and perused the materials available on record.

B.RAJENDRAN, J.

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7. On a careful consideration of the entire evidence available on record as well as the judgments of both Courts below, it is seen that the evidence of P.Ws.1 and 2 who were the eye witnesses to the accident had been corroborated with the evidence of P.Ws.3 to 5. From the reading of the evidence of P.Ws. 6 and 7, it is clear that the accused after committing the offence did not stop the vehicle and the said conduct of the accused in not stopping the vehicle after the commission of offence, clearly establishes that it is accused who has committed the accident. Further, as rightly held by the Appellate Court, the vehicle need not be necessarily driven to the extreme left side of the road. In view of the above, I do not find any reason to interfere with the order of the courts below and hence, this Criminal Revision Petition is dismissed. No costs.

06.10.2015

Index : Yes / No

Internet : Yes / No

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To,

- 1.The Principal District and Sessions Judge, Dharmapuri.
- 2.The District Munsif-cum-Judicial Magistrate, Palacode.
- 3.The Public Prosecutor, High Court, Madras.

Crl.R.C. No.1012 of 2009