

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2015

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.683 of 2010

and

M.P.Nos.1,2 of 2010

Muruganantham

... Petitioner

vs

State represented by
The Inspector of Police
TIW (East), Coimbatore
Coimbatore City
Crime No.332/2005

... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned Additional District and Sessions Judge, Fast Track Court II, Coimbatore, passed in C.A.No.95 of 2009 on 09.04.2010, confirming the judgment of learned VIII Judicial Magistrate, Coimbatore, passed in C.C.No.11 of 2006 on 06.07.2009.

For Petitioner : Mr.A.M.Rahamath Ali

For Respondent : Mr.C.Iyyapparaj, G.A.(Crl)side

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offences u/s.279,337,338 and 304-A, IPC and sentencing him to undergo 3 months S.I. for offence u/s.279 and 337 IPC, 6 months S.I. for offence u/s.338 IPC, 1 year S.I. for offence u/s.304-A IPC and fine of Rs.3000/- i/d 3 months S.I.

2. The prosecution case is that the petitioner drove a Mahendra van bearing registration No.TN-57-E-9013 in a rash and negligent manner and dashed against a stationary lorry on the Avinashi - Coimbatore road on 13.10.2005 at about 05.45 a.m., as a result, one occupant of the van met his death and two others suffered injury. A case was registered on the complaint of the driver of the lorry in crime No. 332 of 2005 on the file of respondent. Pursuant to

investigation charge sheet was filed informing commission of offences u/s.279,337,338 and 304-A IPC and the case was tried in C.C.No.11 of 2006 on the file of learned VIII Judicial Magistrate, Coimbatore.

3. To prove its case, the prosecution examined fifteen witnesses and marked twelve exhibits. None were examined on behalf of the defence nor were any exhibits marked. The trial Court, under judgment dated 06.07.2009, convicted the petitioner/accused for offences u/s.279,337,338 and 304-A IPC and sentenced him to undergo 3 months S.I. for offence u/s.279 and 337 IPC, 6 months S.I. for offence u/s.338 IPC, 1 year S.I and fine of Rs.3000/- i/d 2 months S.I. There against, the petitioner preferred an appeal in C.A.No.95 of 2009 on the file of learned Additional District and Sessions Judge, Fast Track Court II, Coimbatore, which came to be dismissed under judgment dated 09.04.2010. Hence, this revision.

4. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

5. Learned counsel for petitioner submits that P.Ws.1 and 2 were the injured witnesses. P.W.3 being the brother of the deceased. Though in chief they have informed of the petitioner having driven the van in a rash and negligent manner and having dashed the same against the stationary lorry, in cross they have spoken to seeing the lorry only after the accident. P.W.6 the complainant/lorry driver, in chief, deposed to witnessing the accident after having pulled the lorry over to the left hand extreme of the road, parked the same and thereafter alighting from the lorry towards purchasing diesel. In cross examination, he had spoken to alighting from the lorry after the accident. Learned counsel for petitioner contended that the accident had taken place in unavoidable circumstances. The lorry had come to an abrupt halt and in trying to avoid the accident the petitioner had steered the van towards the right but despite his best efforts the left front of the van came into contact with the right rear of the lorry, thereby resulting in death and injury. Learned counsel would draw support for such contention from the evidence of P.W.5-Motor Vehicle Inspector.

6. Learned Government Advocate (Crl.side) submits that the prosecution case stands proved through the direct evidence of P.Ws.1 to 3, eye witnesses as also the evidence of P.Ws.6 and 7, the driver and cleaner of the lorry. The courts below have, on proper appreciation of the materials before them concurred in conviction and the same called for no interference.

7. This court has considered the rival submissions.

8. It is the evidence of P.W.6 - lorry driver, that the lorry had developed an air block since there was no diesel. The possibility of the lorry having come to an abrupt halt owing thereto cannot be ruled out. The damages to both vehicles viz, the right extreme rear of the lorry and left extreme front of the van would inform that the petitioner has made an effort to avert the accident. P.Ws.1 to 3, travelling in the van driven by the petitioner, have admitted to noticing the lorry after the accident.

9. In the circumstances, this court is of the view that benefit of doubt is to be afforded to the petitioner. This Criminal Revision is allowed. The judgments of Courts below are set aside. Petitioner is acquitted of all charges. Fine amount, if any, paid by petitioner shall be refunded to him. Bail bonds, if any, executed by petitioner shall stand cancelled. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

To

1. The Additional District and Sessions Judge
Fast Track Court II, Coimbatore
2. The Principal Sessions Judge, Coimbatore
3. The Judicial Magistrate, No.8
Coimbatore
4. do thro the Chief Judicial Magistrate, Coimbatore
5. The Inspector of Police,
TIW (East), Coimbatore
Coimbatore City
6. The Public Prosecutor, High Court, Madras

1 cc to M/.s.H. Rajasekar, Advocate, Sr. 69027

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RSK (CO)
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