

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Criminal Revision No.531 of 2011

K.Rajendran ... Petitioner/Appellant
/Accused

Vs

State rep. By
Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai Suburban Police,
Crime No.201/2007 ... Respondent/Respondent
/Respondent

Prayer:-

This Criminal revision is filed under Section 397 & 401 of Cr.P.C., aggrieved over the order of the learned Additional District & Sessions Judge, Fast track Court-I, Poonamallee dated 30.09.2010 passed in Crl.A.No.58 of 2010 confirming the judgment of the learned Judicial Magistrate No.1, Poonamallee dated 21.06.2010 in C.C.No.200 of 2007.

For petitioner : Mr. A.M.Rahamath Ali

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

O R D E R

The sole accused in C.C.No.200 of 2007 on the file of the learned Judicial Magistrate No.1, Poonamallee is the revision petitioner.

2. Before the trial Court, he has been prosecuted for offences under Sections 279, 337, 304(A) IPC.

3. To establish the offences, prosecution examined P.Ws.1 to 13.

4. Appreciating the said evidence, the learned Magistrate convicted and sentenced him as detailed below:

Offence	sentences
279 IPC	Fined Rs.250/-, i/d for one month S.I.
337 IPC	Fined Rs.250/-, i/d for one month S.I.
304(A)	One year R.I. and fined Rs.500/- i/d for one month S.I.

He has paid the fine amount.

5. The case of the prosecution in brief is stated as under:

P.W 2 is husband of the deceased. On 03.03.2007, at about 6 p.m., on the Valasaravakkam Main Road, near Magestic colony, P.W.2 was riding his motorcycle No.TN 09 AP 1002 from South to North. His wife was the pillion rider. At that time, the lorry No.TN 09 2919, belonging to P.W.8 came driven by the accused. The lorry was also proceeding from South to North. The lorry came behind the said motorcycle. Near the Magestic colony, the lorry was driven fastly and it hit on the rear side of the P.W.1's motorcycle. The pillion rider was thrown out. She sustained severe head injury. P.W.2 sustained injury in his leg. P.W.3 witnessed the road accident. P.W.1, a neighbouring tailoring shop owner, lodged Ex.P.1, complaint to P.W.10, S.I. of Police. Based upon which, this case was registered (Ex.P.8-F.I.R). In the presence of P.W.4, the investigation officer prepared Ex.P.2, Observation Mahazar. Drew Ex.P.11, Rough Sketch. The deceased died of head injury. P.W.5, the Doctor conducted postmortem and issued Ex.P.3, Postmortem Certificate. P.W.6, noticed simple injury on the left leg of P.W.2. P.W.7 Motor Vehicle Inspector inspected the lorry. He found no mechanical defect in the lorry. (Ex.P8, Report). P.W.9 inspected the motor bike. He found no mechanical defect in it and issued Ex.P.9, Inspection Report. This case was investigated into by P.Ws.11 to 13. Ultimately, P.W.13, completed the investigation and filed the final report for offences under Sections 279, 337, 304-A IPC before the learned trial Court.

6. As stated already, the learned Magistrate believing the evidence of the prosecution witnesses, convicted and sentenced the accused.

7. Aggrieved, the accused has directed the criminal appeal in C.A.No.58 of 2016 before the learned II Additional Sessions Judge, Poonamallee.

8. The learned Appellate Judge after hearing both sides, confirmed the conviction and sentence and dismissed the criminal appeal. That is how this criminal revision by the accused.

9. It has been contended by the learned counsel for

the lorry driver was guilty of the offences alleged as against him. There is no evidence to show that he drove the lorry either rashly or fastly or negligently. Even P.W.1 has not supported the prosecution. He stated that he heard the loud sound. He did not see that the lorry driver/accused has driven the lorry in a rash and negligent manner. P.W.2 is an interested witness. He, having aggrieved by the death of her wife in the accident, gave exaggerated evidence. P.W.3 is a planted witness. Actually, he is a chosen witness. In the circumstances, in appreciating the evidence, of both the Courts have not appreciated the evidence in proper perspective. Their findings suffers from legality.

10. The learned Government Advocate (Criminal Side) submits that the evidence of P.Ws.1 to 3 very clearly establishes not only the road accident, but also the manner, in which, the lorry driver had driven the lorry. He had hit on the rear side of the motor bike and that has contributed to the road accident. P.W.3 is an independent evidence. He has no axe to grind as against the accused. Appreciating the evidence in proper perspective, both the Courts have rightly recorded the conviction and punished him. In the circumstances, there is no occasion here to interfere with the said findings.

11. I have anxiously considered the rival submissions, perused the impugned judgments and also the entire materials on record.

12. The legality or regularity of the finding rendered by criminal Courts is open to revision before this Court under Section 397 r/w.401 Cr.P.C. Therefore, the focus of the Court would be whether the findings under challenge suffers from any legality, whether they have failed to consider the evidence, which they have to consider and whether they have taken into account evidence, which they should not have taken into account.

13. Now in this case, P.W.2 is the husband of the deceased, who himself was injured in the road accident. P.W.1 could not see the manner of the accident because at that time, he was riding the motor bike. In his evidence P.W.3 had stated that the vehicle came driven by the accused. He had also confirmed that in the road accident P.W.2's wife also sustained head injury. P.W.3 has very clearly stated that the lorry driver has driven the lorry in a rash and negligent manner. At the time of accident, the bike and the lorry were proceeding in the same direction, namely, from South to North. The lorry came driven from behind. The medical evidence shows P.W.2 sustained simple injury. The postmortem doctor's evidence is that P.W.2's wife died because of the injury sustained by her in the road accident. In the facts and circumstances, in proper appreciation of the evidence both the Courts have correctly recorded the finding that offences

under Sections 279, 337 and 304 (A) IPC are made out in this case and sentenced him.

14. In the facts and circumstances, we do not find any infirmity, legality or perversity in the findings recorded by both the Courts below. Thus, our interference is not called for.

15. In view of the foregoings, this revision fails and it is hereby dismissed. The appeal bail stand cancelled. The trial Court shall take steps to secure the accused and commit him to jail to serve the sentence.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrp

To

- 1.The Judicial Magistrate No.1,
Poonamallee.
- 2.Do Through the Chief Judicial Magistrate,
Tiruvallur.
- 3.The Additional District and Sessions Judge,
Fast Track Court I, Poonamallee.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 5.The Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai Suburban Police.
- 6.The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.531 of 2011

GJ II(CO)
CA(07/12/2016)