

The Accused namely Arumugam S/o. Kalian, was directed to be released on bail made in M.P.2/10 in CrI.R.C.No.690/2010 of this court dated 20.7.2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.R.C.No.690 of 2010

Arumugam
S/o.Kalian

... Petitioner/ Accused

vs.

The State represented by
Station House Officer,
Panruti Police Station.
Crime No.233 of 2006

... Respondent/ Complainant

Criminal Revision filed under section 397 & 401 of the Code of Criminal Procedure, confirming the judgment of learned Judicial Magistrate, Panruti, passed in C.C.No.55 of 2007 on 27.01.2009 and to set aside the judgment of learned Additional District Sessions Judge, Fast Track Court II, Cuddalore, passed in C.A.No.7 of 2009 on 25.05.2010.

For Petitioner : Mr.M.Murali

For Respondent : Mr.C.Iyyapparaj
Government Advocate [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(2 counts) and 304-A (2 counts) IPC and sentencing him to 6 months S.I. and fine of Rs.1,000/- i/d. 1 month S.I. for offence u/s.279 IPC, 1 month S.I. and fine of Rs.500/- i/d 1 week S.I. for each count for offence u/s.337(2 counts) IPC and 1 year S.I. and fine of Rs.1,000/- i/d 1 month S.I. for each count for offence u/s.304-A (2 counts) IPC.

2. The prosecution case is that on 15.04.2006 at about 05.45 a.m., petitioner/accused rashly had driven a Tipper Lorry bearing registration No.TN-01-H-9109 and hit four persons, owing to which two persons died and two sustained injuries. A case was registered in Crime No.233 of 2006 on the file of respondent and upon completion of investigation and filing of charge sheet informing commission of offences u/s.279, 387 and 304-A IPC, the case was tried in C.C.No.55 of 2007 on the file of learned Judicial Magistrate, Panruti.

3. To prove its case, the prosecution examined twenty witnesses and marked eleven exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, the trial Court, under judgment dated 27.01.2009, convicted the petitioner/accused for offences u/s.279, 337(2 counts) and 304-A (2 counts) IPC and sentenced him to 6 months S.I. and fine of Rs.1,000/- i/d. 1 month S.I. for offence u/s.279 IPC, 1 month S.I. and fine of Rs.500/- i/d 1 week S.I. for each count for offence u/s.337(2 counts) IPC and 1 year S.I. and fine of Rs.1,000/- i/d 1 month S.I. for each count for offence u/s.304-A (2 counts) IPC. The trial Court directed that sentences run consecutively. The trial Court further ordered suspension of driving license of the petitioner/accused. There against, petitioner preferred an appeal in C.A.No.7 of 2009 on the file of learned Additional District Sessions Judge, Fast Track Court II, Cuddalore, which came to be dismissed under judgment dated 25.05.2010. Hence, this revision.

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

5. The contention of defence that the accident took place only owing to the negligence of the deceased and victims by suddenly crossing the road has been negated by Courts below on the reasoning that PWs.1 to 5 clearly and categorically deposed that the accident had occurred owing the rash and negligent driving of the accused and the accused had fled from the scene after the occurrence. Courts below have also taken into consideration the fact that though it was the defence version that some of the witnesses failed to identify the accused, PW-14, owner of the tipper lorry, clearly deposed that the accused was the driver who drove the lorry at the relevant point of time. The evidence of PW-15, Motor Vehicle Inspector, and his report, Ex.P4, also supported the prosecution case. Courts below have held that it is for the accused to establish that the accident did not take place owing to his rash and negligent driving, but, in the instant case, the accused has failed to do so. Courts below have further held that mere non-production of photographs taken at the scene of crime and non-mentioning of blood stains in the rough sketch would not undo the prosecution case since PWs.1 to 3, eye witnesses, clearly have deposed that the accident had occurred owing to the rash and

negligent driving of the accused. For the aforesaid and other reasons, Courts below have held that the prosecution has established its case beyond reasonable doubt and accordingly, convicted the accused. This Court finds no error in the approach adopted by Courts below.

This Criminal Revision stands dismissed. Petitioner/accused shall now be taken into custody towards serving the remaining portion of the sentence yet to be undergone by him.

Sd/-
Asst.Registrar (AS)

/true copy/

Sub Asst. Registrar

gm

To

- 1.The Judicial Magistrate,
Panruti.
2. The Chief Judicial Magistrate
Cuddalore
- 3.The Additional District Sessions Judge,
Fast Track Court II,
Cuddalore.
- 4.The Station House Officer,
Panruti Police Station.
- 5.The Additional Public Prosecutor,
High Court, Madras.

1 cc to Mr.M. Murali, Advocate, Sr. 2864

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