

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.498 of 2014
and M.P.1 of 2014

Mani Petitioner/Accused

Vs

State Rep. By
Inspector of Police,
Sholavaram Police Station,
Thiruvallur District. Respondent/Complainant

Prayer:- This Criminal revision petition is filed under Section 397 & 401 of Cr.P.C., praying to call for the records and set aside the Judgment of conviction dated 07.03.2014 in C.A.No.63 of 2012 on the file of the learned IV Additional District and Sessions Judge, Ponneri by confirming the Judgment dated 03.08.2012 by the learned Judicial Magistrate No.2, Ponneri in C.C.No.12 of 2010.

For petitioner :Mr.T.P.Sekar

For Respondent :Mr.R.Ravichandran
Government Advocate (Crl side)

O R D E R

This revision has been filed to call for and set aside the Judgment of conviction dated 07.03.2014 in C.A.No.63 of 2012 on the file of the learned IV Additional District and Sessions Judge, Ponneri confirming the Judgment dated 03.08.2012 by the learned Judicial Magistrate No.2, Ponneri in C.C.No.12 of 2010.

2. The petitioner is the sole accused in C.C.No.12 of 2010, and stood charged for offences under Section 279 and 304-A IPC. The trial Court found him guilty of the offence under Section 304-A IPC and sentenced him to undergo simple imprisonment for 6 months and convicted him for the offence

under Section 279 IPC and sentenced to pay a fine of Rs.1,000/- in default undergo 2 weeks rigorous imprisonment. Challenging the same, the petitioner filed a C.A.No.63 of 2012 on the file of the IV Additional District and Sessions Judge, Ponneri. The Lower Appellate Court confirmed the conviction and sentence and dismissed the appeal. Challenging the same, the present revision petition has been filed.

3. The case of the prosecution is as follows:-

The deceased in this case is one Arukani, is the wife of PW1 Mani. Both PW1 and the deceased were engaged in laying road in Alamathi to Thiruvallur high road near one Karimbhai Garden, and they were working on the road along with some other workers, after putting necessary precautions viz., barricades, an indication that the vehicles should not enter into the road as the road work was in progress. At that time, a mini lorry, driven by the accused came in a rash and negligent manner after break open the barricade dashed against the deceased and caused her death. Thereafter, PW1 husband of the deceased filed a complaint before the respondent police. PW7 Inspector of Police in the respondent police station, on receipt of the complaint given by the husband of the deceased PW1, registered a case in Crime No.769 of 2009 for the offences under Section 279, 304(A) IPC and prepared First Information Report, which has been marked as Ex.P.5. On 14.09.2009 the Inspector of Police arrested the accused then he visited the scene of occurrence, prepared observation mahazar and rough sketch which have been marked as Ex.P.6 and Ex.P.7 sent the offending lorry for examination by the Motor Vehicle Inspector, and his report has been marked as Ex.P.4. P.W.5 Doctor in the Stanley Hospital, Chennai conducted postmortem autopsy, postmortem certificate was marked as Ex.P.3. PW6 Motor Vehicle Inspector inspected the offending vehicle and also filed a report which is marked as Ex.P.4, after recording the statements PW7 and PW8 the Inspector of Police filed the charge sheet.

4. Considering the above materials, the trial Court framed the charges as mentioned above. The accused denied the same. In order to prove its case, the prosecution examined eight witnesses and marked eight documents. Out of the witnesses examined, PW1 is the husband of the deceased, who was also working along with the deceased at the time of occurrence. According to him PW1, deceased and other employees were laying tar on the road, after putting necessary precautions like barricades, red flag and sign board they were all working on the road. At that time, the petitioner drove the mini lorry which came in a rash and negligent manner and broke the barricade dashed against the deceased and caused her death. PW2 is a co-worker, who was working along with PW1 and

he has also spoken about the occurrence. PW3 turned hostile. PW4 is another eye witness to the occurrence, a co-worker and he has also spoken about the occurrence in detail. PW5 is the Doctor who conducted Post-mortem autopsy and gave post-mortem report which is marked as Ex.P3. PW6 is the Motor Vehicle Inspector who examined the offending vehicle and gave report that there is no mechanical failure and the report has been marked as Ex.P.4. PW7 Sub Inspector of Police registered the complaint and prepared FIR. PW8 Inspector of Police who conducted the investigation, recorded the statement of witnesses and after completing the investigation he filed a charge sheet.

5. When the accused was questioned on the above incriminating materials under Section 313 Cr.P.C. he denied the same. Considering all the above materials, the trial Court convicted the petitioner as stated above. Challenging the same, the petitioner filed an appeal in CrI.A.No.63 of 2012 on the file of the learned IV Additional District and Sessions Judge, Ponneri and the lower Appellate Court confirmed the conviction and sentence and dismissed the appeal. Challenging the same, the present revision has been filed by the accused.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent-police.

7. There are four eye witnesses to the occurrence, out of which three witnesses were co-workers, they were working along with deceased. PW1 is the husband of the deceased. According to him, they were all working in the road after making necessary precautions and at that time, the petitioner drove the vehicle in a rash and negligent manner and after breaking the barricade, dashed against the deceased. Other eye witnesses being the co-workers their evidence also corroborates the evidence of PW1, as all of them were working in the road at that time. Their evidence is consistence, their presence in the scene of occurrence also natural and there is no reason to disbelieve their evidence. The medical evidence also corroborate their evidence. PW6 Motor vehicle Inspector examined the offending vehicle and gave a report that there is no mechanical failure, apart from that immediately after the occurrence, complaint has been given.

8. In the above circumstances, I am of the considered view that the prosecution case clearly establishes that only this petitioner drove the vehicle in a rash and negligent manner and caused the death of the deceased. The Court below, after considering the materials available on record, concurrently held against him and convicted the petitioner. I find no illegality

or irregularity in the judgment of the Court below.

9. So far as the quantum of sentence is concerned, the petitioner is a young man and he has no bad antecedent and he has family to maintain. Considering the above mitigating circumstances, the petitioner is imposed with a fine of Rs.1,00,000/- (Rupees One lakh) and the above amount should be paid as a compensation to PW1, the husband of the deceased under Section 357(3) Cr.P.C.

10. In the result, this criminal revision petition is partly allowed. The conviction of the petitioner under Section 279 & 304-A IPC is confirmed and the petitioner is sentenced to pay a fine of Rs.1,00,000/- (Rupees One Lakh) within a period of four weeks from the date of receipt of a copy of this order. In default to pay the fine amount, he is directed to undergo six months rigorous imprisonment. The entire amount of fine should be paid as compensation to PW1, the husband of the deceased under Section 357 (3) Cr.P.C. Consequently connected miscellaneous petition is also closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The learned IV Additional District
and Sessions Judge, Ponneri

2. The learned Judicial Magistrate No.2, Ponneri

+1cc to Mr.T.P.Sekar, Advocate SR.No.19312

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SDR 11.05.2017