

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.1117 of 2011

B.Sasikumar

... Petitioner

Vs

State rep. By
Sub-Inspector of Police,
Bargur Police Station,
Krishnagiri District,
(Cr.No.381 of 2006)

.. Respondent

Prayer:- Criminal Revision filed under Sections 397 r/w 401 of Cr.P.C., to set-aside the order passed in Crl.A.No.80 of 2008 on the file of the Additional Sessions Judge, Krishnagiri dated 22.06.2011 by confirming the order passed in C.C.No.229 of 2006 on the file of the Judicial Magistrate No.I, Krishnagiri, dated 29.10.2008.

For petitioner : Mr. M.Ganeshan

For Respondent : Mrs.M.F.Shabana,
Gov. Adv. (Crl. Side)

JUDGEMENT

The sole accused in C.C.No.229 of 2006 on the file of the Judicial Magistrate, Krishnagiri, is the revision petitioner herein. He stood charged for the offences under Sections 279, 304-A IPC. By judgment, dated 29.10.2008, the trial Court convicted and sentenced him to undergo simple imprisonment for 6 months and imposed a fine of Rs.500/-, in default, to undergo simple imprisonment for 3 months for both the offences. Challenging the above said conviction and sentence, the petitioner filed an appeal in C.A.No.80 of 2006 on the file of the Additional Sessions Court, Krishnagiri, and the lower appellate Court dismissed the appeal by confirming the

conviction and sentence passed by the trial Court. Aggrieved by the same, the appellant is before this Court with this revision.

2. The case of the prosecution, in brief, is as follows:-

The deceased, in this case, one Nagapan was a retired teacher and the husband of P.W.1. On 04.07.2006, at about 7.30 p.m., while the deceased was coming in a TVS Super XL, moped, near Aathimarathupallam, a car driven by the accused came in a rash and negligent manner and dashed against the deceased and caused his death. P.Ws.2 and 3, who are all sitting in the nearby Tea shop were eye-witness to the occurrence, they immediately called the ambulance and sent the deceased to the Government Hospital, Krishnagiri. Thereafter, P.W.1, wife of the deceased, on coming to know about the accident, lodged a complaint before the respondent police.

3. P.W.11, Sub-Inspector of Police, attached to the respondent police, on receipt of the complaint, registered a case in Crime No.381 of 2006, for the offences under Sections 279, and 304-A IPC and prepared a First Information Report (Ex.P.6). Then, he commenced investigation, proceeded to the scene of occurrence and prepared an Observation Mahazar (Ex.P.2) and drew a Rough Sketch (Ex.P.7) in the presence of the witnesses. Thereafter, he conducted inquest on the dead body of the deceased in the presence of the panchayathars and prepared Inquest Report (Ex.P.8), P.W.11 also seized both the vehicles and sent it for inspection to the Motor Vehicle Inspector. P.W.9, Doctor, working in Government Medical College Hospital, Krishnagiri, on 05.07.2006, at about 10.45 a.m., conducted postmortem on the dead body of the deceased and has given a postmortem certificate (Ex.P.3). P.W.12, Inspector of Police, took the case for further investigation and recorded the statement of the Doctor, who conducted postmortem on the dead body of the deceased and after completion of investigation, he laid charge sheet against the accused.

4. Based on the above materials, the trial Court framed charges as mentioned in paragraph 1 of the judgment. The accused denied the same. In order to prove its case, on the side of the prosecution, as many as 12 witnesses were examined and 8 documents were exhibited.

5. Out of the witness examined, P.W.1 is the wife of the deceased. According to her, on hearing about the accident, she lodged a complaint before the respondent police. P.Ws.2 and 3 are eye-witnesses to the occurrence. According to them, at the time of occurrence, while they were sitting in a nearby Tea shop, they saw the deceased riding in his moped in Krishnagiri-Chennai Highways, towards Bargoor, at that time, a TATA INDIGO

Car, driven by the accused came in a rash and negligent manner behind the deceased and dashed against him and caused his death. Immediately, they called an ambulance and sent the body to Government Hospital, Krishnagiri. P.W.4 is a neighbour of deceased and his evidence has no substance. P.W.5 is a hearsay witness, who is a relative of the deceased, there is no substance in his evidence. P.W.6 is also related to the deceased and there is no substance in his evidence. P.W.7 and P.W.8 are witnesses to the Observation Mahazar and also Rough Sketch. P.W.9, Doctor, conducted postmortem on the dead body of the deceased and gave postmortem report (Ex.P.3) P.W.10, Motor Vehicle Inspector, inspected both the offending vehicle as well as the vehicle driven by the deceased and has given a report stating that there was no mechanical fault in the offending vehicle and has given a report Ex.Ps.4 and 5. P.W.11, Sub-Inspector of Police, registered the case, commenced investigation and conducted inquest on the dead body of the deceased and handed over the case to P.W.12. P.W.12, conducted further investigation and recorded the statement of the Doctor, who conducted postmortem on the dead body of the deceased and after completion of investigation, he laid charge sheet.

6. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. However, he did not examine any witness nor marked any documents on his side.

7. Having considered all the above materials, the trial Court convicted the petitioner/accused as stated in the first paragraph of this judgment. Challenging the same, the petitioner/accused has filed an appeal before the Additional Sessions Court, Krishnagiri and the lower appellate Court dismissed the appeal by confirming the conviction and sentence passed by the trial Court. Aggrieved by the same, the petitioner is before this Court with this Criminal Revision.

8. I have heard Mr.M.Ganeshan, learned counsel appearing for the petitioner and Mrs.M.F.Shabana, learned Government Advocate (Crl.Side) appearing for the State and also perused the records carefully.

9. P.Ws.2 and 3 are eye-witnesses to the occurrence. Both of them were sitting in a Tea shop near the scene of occurrence. Both the eye-witnesses have categorically stated that while the deceased was riding his moped towards Bargoor in the left end of the road, a TATA INDIGO car driven by the accused came in a rash and negligent manner behind the deceased and dashed against him and caused his death. Subsequently, they informed the same to P.W.1, wife of the deceased and she came to the hospital and thereafter, she lodged a complaint.

10. The presence of P.Ws.2 and 3 in the scene of occurrence has not been disputed by the accused and P.W.2 is an independent witness and P.W.3 is a teacher and they have no axe to grind against the petitioner/accused. Hence, there is no reason to disbelieve their evidence. P.W.10 is the Motor Vehicle Inspector, who inspected the offending vehicles as well as the vehicle of the deceased and he has given a report stating that there was no mechanical failure in the offending vehicle and has also found extensive damage in the front side of the offending car and the windscreen mirror also broken and the evidence of the Motor Vehicle Inspector also corroborated the evidence of the eye-witnesses.

11. Considering all the above materials, both the courts below convicted the petitioner/accused. I find no illegality or perversity in the order of the courts below and no reason to interfere with the same. Hence, the conviction imposed on the appellant under Section 279 and 304-A IPC is confirmed.

12. So far as the quantum of sentence is concerned, it is seen that the petitioner is a young man and he has no bad antecedent and he has a family to maintain. Considering the mitigating as well as the aggravating circumstances, each of the sentences imposed on the appellant for the said offences, is modified to rigorous imprisonment for one month and to pay a fine of Rs.500/- each, in default, to undergo rigorous imprisonment for four weeks.

13. In the result, the Criminal Revision is partly allowed and the conviction imposed on the appellant under Sections 279 and 304 A IPC is confirmed and sentences imposed on the petitioner for the said offences, is modified to rigorous imprisonment for one month and to pay a fine of Rs.500/- each, in default, to undergo rigorous imprisonment for four weeks for each of the offences. The sentences are ordered to run concurrently. The period of sentence already undergone by the petitioner is set off under Section 428 Cr.P.C.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Additional Sessions Judge,
Krishnagiri.
2. The Judicial Magistrate No.I,
Krishnagiri.
- 3.The Public Prosecutor,
High Court, Madras.
4. The Sub-Inspector of Police,
Bargur Police Station,
Krishnagiri District,

Crl.R.C.No.1117 of 2011

TR(04/12/2017)



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