

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2017
CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.1027 of 2016

S.Karunanithi

... Petitioner

vs

The Inspector of Police,
Vadalur Police Station,
Cuddalore District.
(Crime No.495 of 2011)

... Respondent

Criminal Revision Case filed under section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in connection with judgment passed in C.C.No.18 of 2013 by the Chief Judicial Magistrate, Cuddalore on 22.09.2014 and the same was confirmed by the Principal Sessions Judge, Cuddalore in Crl.A.No.51 of 2014 on 11.09.2015 and to set aside the same.

For Petitioner

: Mr.C.Sivakumar

For Respondent

: Mr.R.Ravichandran

Government Advocate(Crl. Side)

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ORDER

This criminal revision case has been filed against the order of conviction. The petitioner is the sole accused in C.C.No.18 of 2013, on the file of the learned Chief Judicial Magistrate, Cuddalore. He stood charged for an offence under Sections 279, 337(two counts), 338 and 304(A) IPC. The trial Court, after trial, convicted the petitioner/accused under Section 304(A) IPC, and sentencing him to undergo three months rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for three months and convicted him under Section 338 IPC and imposed a fine of Rs.1000/- in default to undergo simple imprisonment for one month and convicted him under Section 337(2 counts) IPC and imposed a fine of Rs.500/- each, in default, to undergo simple imprisonment for one month. Challenging the above said conviction and sentence, the petitioner/accused has filed a Criminal Appeal in C.A.No.51 of 2014 on the file of the learned Principal Sessions Judge, Cuddalore. The lower appellate Court, by its judgment dated 11.09.2015, dismissed the appeal, confirming the conviction and sentence passed by the Trial Court. Challenging the above conviction and sentence, the petitioner preferred this present criminal revision case.

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

(i) The deceased one Suseela is the wife of P.W.1. On 18.08.2011 at about 6.15 p.m., both the P.W.1 and his wife/deceased, came in a motor cycle to attend a family function. While they are coming near Kannuthope Bridge in Vadalur - Chennai Highway, as the bridge is a narrow bridge and the vehicles are coming in the opposite direction, P.W.1 stopped the two wheeler on the left side at the entrance of the bridge and waiting. Likewise, P.W.1, other two wheelers were also waiting for the vehicle coming in the opposite direction in the bridge to cross the bridge. At that time, a Mini Lorry, bearing Registration No.TN.33.W.6162, driven by the accused in a rash and negligent manner from behind them and dashed against P.W.1's two wheeler, and also other two wheelers standing in the front of him, and caused injuries to P.W.1, his wife, and also P.W.4. Then, they were taken in a ambulance to Cuddalore Government Hospital. Where, the deceased succumbed to injuries. Then, P.W.1 has given complaint before the respondent police.

(ii) P.W.12, the Sub Inspector of police working in the respondent police station, on receipt of the complaint, registered a case in Crime No.495 of 2011 for the offence under Sections 279, 337, 338 and 304(A) IPC, prepared first information report[Ex.P3] and sent the same to the higher officials.

(iii) P.W.13, the Inspector of Police working in the respondent police

station, on receipt of the first information report, commenced investigation, proceeded to the scene of occurrence, prepared an observation mahazar [Ex.P2] and drew the rough sketch[Ex.P13]. Then, he conducted inquest over the dead body of the deceased in the presence of panchayators, and prepared inquest report [Ex.P14]. Then, he sent the dead body to the Government Hospital, Cuddalore for postmortem autopsy. P.W.10, the Doctor working in the Government Hospital, Cuddalore, examined P.W.1 and P.W.4 and issued Accident Register [Ex.P5] and he also examined another injured person, namely, one Velumani. P.W.7, the Doctor working in the Government Hospital, Cuddalore conducted postmortem autopsy on the dead body of the deceased and issued postmortem certificate [Ex.P3]. P.W.13, continued the investigation and sent the Mini Lorry to the Motor Vehicle Inspector for inspection. P.W.11, the Motor Vehicle Inspector, inspected the Mini Lorry and given a certificate that there is no mechanical failure in the lorry and also found that the windscreen of the mini lorry has been damaged and the left side head light also damaged. P.W.13, continued the investigation, examined the witness and recorded their statements and after completion of investigation, he filed the final report.

3. Considering the above materials, the Trial Court framed charges as detailed above and the accused denied the same as false. In order to prove the case of prosecution, as many as 13 witnesses were examined and 14 documents

were exhibited and no material objects were marked.

4. Out of the said witnesses examined, P.W.1 is the husband of the deceased. According to him, on the date of occurrence, both the P.W.1 and his wife/deceased came in a motor cycle to attend a family function. While they are coming near Kannuthope Bridge in Vadalur - Chennai Highway, since the vehicles are coming in the opposite direction, P.W.1 stop the two wheeler on the left side entrance of the bridge and waiting there. At that time, a Mini Lorry driven by the accused came in a rash and negligent manner behind them and dashed against P.W.1's two wheeler and also another two wheelers standing in front of him and caused injuries to P.W.1 and his wife and also P.W.4. Thereafter, his wife succumbed to injuries. Then, he has given complaint before the respondent police station. P.W.2 is the relative of the deceased. He came to the Hospital after the occurrence. P.W.3 is the witness to the observation mahazar. P.W.4 is the another injured person. He was also waiting in front of the bridge in a two wheeler. At that time, the Mini Lorry came in the opposite direction, in a rash and negligent manner, and dashed against him and caused injuries to him. P.W.5 is one of the relative of the deceased. He went to the Government Hospital, Cuddalore and saw the dead body of the deceased. P.W.6 is the relative of the deceased and his evidence is no way helpful to the prosecution. P.W.7, the Doctor, working in the Government Hospital, Cuddalore. He conduct the postmortem autopsy on the

dead body of the deceased and issued postmortem certificate. P.W.8 is an another eye witness to the occurrence, he has also suffered injury in the above said accident. According to him, while he was waiting near the bridge in the motor bike, the mini lorry driven by the accused came in a rash and negligent manner, and dashed against the motor cycle and caused injuries and he has also suffered fracture. P.W.9 is the another eye witness to the occurrence. He is also suffered injuries and stated that at the time occurrence, he was standing near the bridge, the mini lorry driven by the accused in a rash and negligent manner and dashed against the motor cycles and caused injuries. P.W.10 is the Doctor working in the Government Hospital, Cuddaore. He examined P.W.1,4,5 and 9 and issued Accident Register. P.W.11 is the Motor Vehicle Inspector. He inspected the Mini Lorry and found that the windscreen of the lorry has been damaged, and the left side head light also damaged and he found that there is no mechanical failure in the lorry. P.W.12, the Sub Inspector of Police working in the respondent police station. According to him, on receipt of the complaint he registered the case and prepared first information report and the sent the same to the higher officials. P.W.13 is the Inspector of Police working in the respondent police station. According to him, on receipt of the first information report, commenced the investigation, examined the witnesses and recorded their statements and after completion of investigation he laid the charge sheet.

5. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. The accused did not examine any witness nor marked any document.

6. Having considered all the above materials, the Trial Court convicted the accused as stated in first paragraph of this judgment. Challenging the above conviction and sentence, the petitioner/accused filed a Criminal Appeal in C.A.No.51 of 2014 on the file of the learned Principal Sessions Judge, Cuddalore. The lower appellate Court, by its judgment dated 11.09.2015, dismissed the appeal, confirming the conviction and sentence passed by the Trial Court. Challenging the above conviction and sentence, the accused is before this Court with the revision case.

7. I have heard Mr.S.Sivakumar, learned counsel appearing for the Petitioner and Mr.R.Ravichandran, learned Government Advocate(Crl. Side) appearing for the respondent and perused the materials available on record.

8. There are four eye witnesses to the occurrence, namely, 1, 4,8 and 9. P.W.1 is the husband of the deceased. P.W.1 also suffered injury in the occurrence. According to him, they are waiting near the narrow bridge to

allow the vehicle coming in the opposite direction to cross the bridge. At that time, the Mini Lorry driven by the accused in a rash and negligent manner dashed against the motor cycle from behind and caused injuries to P.W.1 and his wife and she succumb to injury. P.W.4, 8 and 9 were also the injured eye witness in the occurrence. All the eye witnesses have consistently stated that while they were waiting in the entrance of the narrow bridge on the left side of the road, the mini lorry driven by the accused in a rash and negligent manner dashed against the two wheelers and caused death of the deceased. Both the deceased and all the eye witnesses have sustained injuries. The evidence of all the eye witnesses are consistent and their evidence also corroborated by the Motor Vehicle Inspector report and the said report stated that the left side of the lorry got damaged. In the above circumstances, there is no reason to disbelieve their evidence. Considering the above materials, both the Courts below convicted the petitioner and I find no illegality or irregularity in the findings of the Court below.

9. So far as the quantum of sentence is concerned, the petitioner is a young man and he has a big family to maintain and he has no bad antecedents and he has already in jail for more than 15 days. In the above circumstances, the sentence imposed by the petitioner is modified to undergo one month rigorous imprisonment and to pay a fine of Rs.1,000/- in default, to undergo

rigorous imprisonment for four weeks.

10. In the result, this Criminal Revision Case is partly allowed. The conviction of the petitioner under Section 304(A) is confirmed and the sentence is modified to undergo one month rigorous imprisonment and to pay a fine of Rs.1000/- in default, to undergo simple imprisonment for four weeks and sentence him to pay a fine of Rs.1000/- in total for the offence under Section 338 IPC and sentence him to pay a fine of Rs.1000/- in total in default, to undergo four weeks simple imprisonment for the offence under Section 337 IPC. If the petitioner is not in custody, the trial Court is directed to take appropriate steps to secured him to undergo the remaining period of sentence. It is directed that the period of detention already undergone by the appellant/accused shall be given set off as required under Section 428 Cr.P.C.

13.06.2017

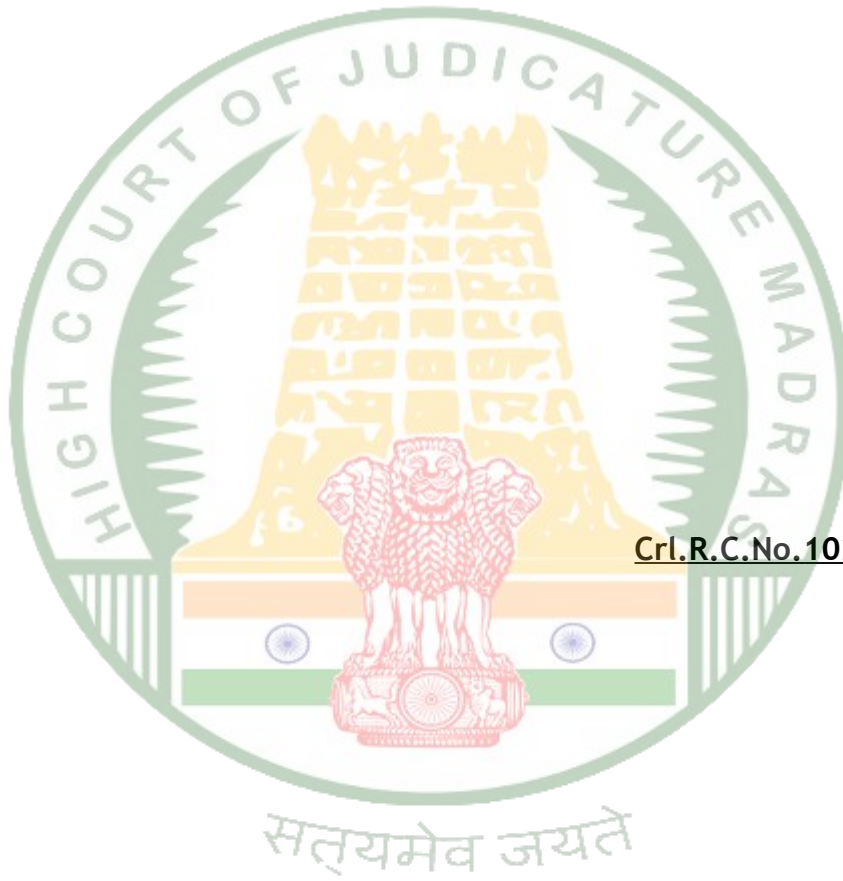
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To

1. The Principal Sessions Judge, Cuddalore.
2. The Chief Judicial Magistrate Court, Cuddalore.
3. The Inspector of Police, Vadalur Police Station, Vadalur.
4. The Public Prosecutor, High Court, Madras-104.

V.BHARATHIDASAN.J

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