

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2017

Coram:

The Hon'ble Mr. Justice C.T. Selvam

CrI.R.C.No.200 of 2012

Mr. Noyal Singh

...Petitioner

Versus

State Represented by
Inspector of Police,
Velipalayam Police Station,
Nagapattinam District.

...Respondent

This Criminal Revision Petition is filed under Section 397 & 401 of Cr.P.C to set aside the judgment passed in C.A.No.80 of 2009 by the learned District and Sessions Judge, Nagapattinam, dated 13.12.2011 confirming the conviction and sentence passed by the Judicial Magistrate No.II, Nagapattinam, made in C.C.No.498 of 2005 by its judgment dated 13.11.2009.

For Petitioner : Mr. S. Shanmuga Velayutham,
Senior Counsel
for
Mr. T. Vijayaraghavan

For Respondent : Mr.V.Arul,
Additional Public Prosecutor

O R D E R

सत्यमेव जयते

This revision is preferred against the judgment passed by learned District and Sessions Judge, Nagapattinam in C.A.No.80 of 2009 dated 13.12.2011 confirming the conviction and sentence passed by learned Judicial Magistrate No.II, Nagapattinam, in C.C.No.498 of 2005 by its judgment dated 13.11.2009 for offence u/s.304(A) IPC and sentenced petitioner to undergo R.I for 6 months and a fine of Rs.1000/- i/d 3 months R.I.

2. The prosecution case was that deceased Srinivasan was working as a Daily Wage Labour in A.D.J. Polytechnic, Nagapattinam and P.W.1 was working as Office Assistant in the above Polytechnic. On 02.08.2005, deceased and P.W.1 left their house in their individual bicycles and they were proceeding to their college. The deceased was proceeding in front of P.W.1 and keeping to the extreme left side of the road. When they were proceeding near Hotel 'Sea Horse' on the left side of the road, a tanker lorry driven by the accused at high speed in a rash and negligent manner coming from Nagapattinam towards Nagore dashed against the deceased who was riding his bicycle. Immediately, the deceased was thrown out and crushed to death. The lorry was stopped by others on their way to work. Immediately, P.W.1 and others took the deceased to hospital. Thereafter P.W.1 gave a complaint Ex.P.1. At that time, P.Ws 2 & 3 were also proceeding to their jobs and walking near the occurrence place. A case was registered in Crime No. 736/2005 on the file of respondent. Upon completion of investigation and filing of charge sheet, the case was tried in C.C.No.498 of 2005 on the file of the Judicial Magistrate No.II, Nagapattinam.

3. Before trial court, prosecution examined 12 witnesses and marked 7 exhibits. No material objects were marked. None were examined on behalf of the defence and no exhibits were marked.

4. On appreciation of the materials before it, trial Court under judgment dated 13.11.2009 rendered a finding of conviction and sentenced the petitioner/accused to undergo 6 months rigorous imprisonment and a fine of Rs.1000/- in default to undergo 3 months rigorous imprisonment. Against such finding, the petitioner/accused preferred an appeal in C.A.No.80 of 2009 before learned District and Sessions Judge, Nagapattinam and the same was dismissed under judgment dated 13.12.2011. There against, this revision.

5. Heard learned counsel for petitioner and the learned Additional Public Prosecutor on behalf of respondent.

6. P.Ws.1 to 5 have been cited as eyewitnesses. A conjoint reading of their evidence clearly informs the manner in which the accident took place. Their evidence is supported by Ex.Ps.1 to 6 and Ex.P.7. There is no occasion to doubt that rash and negligent act of petitioner resulted in the death and findings of Courts below convicting the petitioner for offences u/s.304 (A) IPC cannot be faulted. However, as rightly pointed by learned Senior Counsel, the occurrence was of the date 02.08.2005 and it would not be appropriate to require the petitioner to suffer incarceration, there regards, at this distant point of time. Accepting the submission of learned Senior Counsel, this Court modifies the sentence to fine in a

sum of Rs.51,000/- i/d 3 months S.I. Fine of Rs.1,000/- imposed by Courts below having been deposited by the petitioner before the Trial Court, the petitioner shall now effect deposit of Rs.50,000/- within a period of two weeks from the date of receipt of a copy of this order, in default, petitioner shall undergo 6 months R.I.

7. This Criminal Revision stands disposed of with the above modification.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Nagapattinam.
2. The District and Sessions Judge,
Nagapattinam.
3. The Inspector of Police,
Velipalayam Police Station,
Nagapattinam District.
4. The Public Prosecutor,
High Court,
Madras.
5. The Chief Judicial Magistrate
Nagapattinam

6.The Section Officer
Crl Records High Court, Madras

+1 cc to M/s.T.VijayaRaghavan Advocate sr 67880

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