



IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated :03.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1315 of 2013
and M.P.No.1 of 2013

M. Muthukumar, S/o.K.Muniyandi ...Petitioner/Accused
Vs.
State rep. By Inspector of Police,
Traffic Investigation Unit,
R-4, Soundrapandiyanar Angadi Police Station,
Chennai. ...Respondent/Complainant

Prayer: This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the conviction and sentence passed by the Learned II Additional Sessions Judge/ City Civil Court, Chennai by his judgment dated 05.08.2013 and made in criminal Appeal No. 149 of 2012 convicting the petitioner under section 304 A of IPC to undergo 1 year simple imprisonment and pay a fine of Rs.1,000/- or simple imprisonment for one month and under Section 184 of Motor Vehicle Acts and undergo simple imprisonment for three months confirming the judgment of conviction and sentence passed by the Learned VI Metropolitan Magistrate, Egmore, Chennai-8 by his judgment dated 27.07.2012 made in C.C.No78 of 2011.

For Petitioner : Mr.S.Gunaseelan

For Respondent : Mr.R.Ravichandran

Government Advocate (Crl. Side)

ORDER

The Revision Case has been filed against the conviction and sentence passed by the Learned II Additional Sessions Judge/ City Civil Court, Chennai by his judgment dated 05.08.2013, in criminal Appeal No. 149 of 2012 convicting the petitioner under section 304 A of IPC and sentencing him to undergo 1 year simple imprisonment and pay a fine of Rs.1,000/- or simple imprisonment for one month and under Section 184 of Motor Vehicle Acts, and undergo simple imprisonment for three months, confirming the judgment of conviction and sentence passed by the Learned VI Metropolitan Magistrate, Egmore, Chennai-8 by his judgment dated 27.07.2012 in C.C.No.78 of 2011.

2. The case of the prosecution is that on 07.12.2009 at 11.00 p.m. the revision petitioner/accused drove the water tank lorry bearing registration No.TN.20-J-3004 on Numgambakkam High Road from west to east at a high speed in rash and negligent manner in a public place and dashed against the median wall on the road. Due to the accident, cleaner of the lorry got entangled under the lorry and he was crushed to death. Therefor, the petitioner was charge sheeted for offence under Section 304(A) IPC and 184 MV Act.



3. P.W.1 gave a complaint before the respondent police and they registered a case in Crime No.445/2009 against the revision petitioner of the lorry driver. After investigation, the respondent police filed the Charge Sheet before the learned VI Metropolitan Magistrate, Egmore, Chennai and the same was taken on file in C.C.No.78 of 2011.

4. Before the trial Court, in order to prove the case, prosecution had examined P.W.1 to P.W.5 and marked Ex.P.1 to Ex.P.9 and there is no material object produced .

5. The learned Sessions Judge, after trial, found the accused guilty of offence under Section 304-A IPC and 184 MV Act and hence by judgment dated 27.07.2012, convicted and sentenced him under Section 304-A IPC to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for a period of one month and convicted him under Section 184 M.V. Act and sentenced him to undergo simple imprisonment for a period of three months. It is ordered that the above said period of imprisonment shall run concurrently.

6. Challenging the same, the revision petitioner has filed appeal in C.A.No.149 of 2012 before the learned Sessions Judge, Chennai. After hearing on both sides, the appellate Court dismissed the appeal and confirmed the judgment of the learned Magistrate, dated 27.07.2012. Challenging the said judgment, the accused has filed the present revision before this court.

7. The learned counsel for the petitioner would submit that there is actually no eyewitness to the occurrence and P.W.1, who claim to be as eye witness to the accident was not at all present at the scene of occurrence. The learned counsel submitted that the Court below have failed to appreciate the said facts and have erroneously convicted and sentenced the petitioner as mentioned above.

8. The learned Government Advocate (Crl. Side) would submit that P.W.1/defacto complainant was driving a car behind the lorry, the lorry dashed against the median wall and got on it and then went to a short distance and that in the impact, that portion of the median and a electric post got damaged and that the cleaner of the lorry, got entangled under the wheel of the lorry. He died on the spot. P.W.1 is an independent witness. Further, he would submit that the Motor Vehicle Inspector certified that the accident was not due to any mechanical defect of the vehicle. The medical officer, who has done autopsy on the dead body of deceased opined that caused of death is haemourage shock and due to the injuries sustained. Hence prosecution has established its case beyond reasonable doubt. There is no perversity in the order passed by the Courts below and it does not warrant interference by this Court.

9. Heard the learned counsel appearing for the appellant and the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the materials available on records.



10. The case of the prosecution is that the petitioner was driving a water tanker lorry on the fateful day at Nungambakkam High Road as petitioner was driving the lorry high speed in rash and negligent driving and lost control of the vehicle and he dashed against median of the wall, Due to that vehicle turned turtle and hit against the electric post. The cleaner of the lorry got entangled under the vehicle and he died on the spot. P.W.1, is independent witness. He stated that he come behind the lorry in his car. He has in his evidence stated in clear terms that it was the petitioner, who drove the vehicle in rash and negligent manner and caused the accident. P.W.1 also spoken about the fact that cleaner of the lorry was thrown away from the vehicle and he got crushed under the vehicle.

11. Though the petitioner has stated that the accident has not taken place due to his fault, the evidence of P.W.1 is clear and against him. P.W.1 is independent witness, he has not come to grind against the petitioner. The evidence of P.W.1 is clear, cogent and convinced. The petitioner has not demonstrated that the accident was not due to his rash and negligent driving, he has not produced any evidence other than his own oral evidence. This Court cannot sit in armchair of the appellate Court and re-assess the entire evidence, this Court is only expected to see, is there any perversity in the judgment of the Courts below, in appreciating the evidence. Both the Courts below have gone through the entire evidence in detail and held that accident had taken place due to the fault of the revision petitioner.

12. Therefore, the judgment of conviction dated 05.08.2013 in C.A.No.149 of 2012 made by the learned II Additional Sessions Judge, Chennai, is hereby confirmed and the Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed. The respondent police is directed to secure the accused to undergo punishment imposed by the Court below.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The II Additional Sessions Judge/ City Civil Court, Chennai
 2. -Do-Thro' The Principal Sessions Judge,
City Civil Court, Chennai
 3. The VI Metropolitan Magistrate, Egmore, Chennai
 - 4.-Do-Thro' The Chief Metropolitan Magistrate, George Town, Chennai
 5. The Inspector of Police, Traffic Investigation Unit,
R4 Soundrapandiyanar Angadi Police Station, Chennai.
 6. The Public Prosecutor, High Court, Madras.
- Copy to : The Section Officer, Criminal Section,
High Court, Madras.

+1 cc to M/s.S.Gunaseelan, Advocate Sr.No.68118