

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.10.2018

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1363 of 2013

P.Rajini Kumar

...Petitioner

Vs

State rep.by
Inspector of Police,
Royakottai Police Station.

...Respondent

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code to call for the records pertaining to the order dated 12.2.2013 in C.A.No.9/2011 on the file of the Additional District and Sessions Judge, Krishnakiri, Modified the order dated 8.2.2011 on the file of District Munsif -cum- Judicial Magistrate, Denkanikottai CC46/07.

For Petitioner : M.Selvam.

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

O R D E R

The case of the prosecution is that P.W.1 is the defacto complainant and the complaint was lodged by him is Ex.P1.P.W.2 and P.W.3 are the injured witnesses. P.W.4 and P.W.5 are the eye witnesses to the occurrence. P.W.6, P.W.7, P.W.8, P.W.9, P.W.10 are the hearsay witnesses. P.W.11 is the witness to observation mahazar Ex.P2. P.W.12 is the Inspector, who registered the case and arrested the accused and sent the vehicle involved in accident to M.V.I. Inspector. P.W.13 is the Inspector, who investigated the case and had laid a charge sheet against the accused for the offences under Sections 279, 337, 338, 304(A) IPC.

2.When the accused was questioned under Section 313 Cr.P.C., with regard to the incriminating circumstances culled out from the evidence of prosecution, he denied the same as false and opted to lead defence witnesses but neither produce documentary evidence nor examined oral witness.

3.The victim and three persons came in two wheeler in a rash and negligence manner due to which, the driver dashed against the TVS 50 ridden by VAO Vetrayan. At the time, the bus coming from Rayakottai to Hosur came in an excessive speed and hit the TVS 50 XL vehicle, due to that 3 of them sustained injuries. Thereafter, Vetrayan/VAO was sent to Government hospital, Palacodu and the other two persons were sent to Government hospital, Krishnagiri. Vetrayan/VAO died on the way to hospital. Therefore, they filed the case and after investigation they filed the charge sheet before the Magistrate and thereafter the trial Court examined 13 witnesses and marked exhibits P.1 to P.9. and Magistrate found the accused guilty. Therefore, the petitioner was convicted for the offence under Section 304(A) IPC to undergo simple imprisonment for one year. Against which he preferred the appeal in C.A.No.9/2011 before the Additional District and Sessions Judge, Krishnagiri. The Additional District Judge after hearing the arguments on either side confirmed the order of Judicial Magistrate, Denkanikottai.

4.Heard both sides and perused the materials available on record.

5.The learned counsel for the revision petitioner would submit that at the time of the accident, in TVS 50 XL three persons were travelled in the two wheeler which is prohibited under law, the rider of the two wheeler lost his balance, as a result all of them were thrown out and Vetrayan/VAO sustained injuries and died on the way to hospital. The Court below failed to consider this aspect and convicted the revision petitioner/driver of the bus who drove the bus in a rash and negligent manner which warrants interference of this Court.

6.The learned Government Advocate (Crl.side) would submit that the evidence of eye witness and rough sketch and also post-mortem certificate has clearly shows that the accident had occurred only due to rash and negligent driving of the driver of the bus. Therefore, the prosecution has clearly established his case which does not warrant any interference.

7.In order to prove the case of the prosecution before the Magistrate, prosecution has examined as many as 13 witnesses and marked 9 documents, on the side of the revision petitioner, no oral & documentary evidence has been produced. The petitioner herein and for accused therein has not examined any oral and documentary evidence and from the evidence of the prosecution both the Courts found that the accident had occurred due to rash and negligent driving of the offending bus bearing Registration No.TN.29.F.9957, while dealing with the revision, the revision Court cannot sit in arm chair of the appellate

Court and can not revisit and re-appreciate the entire oral and documentary evidence. This Court has to see from the available materials and also the judgments of the Court below and to see whether any perversity in the judgment of the Courts below. So in this case, on perusal of the entire records, the prosecution has established its case with sufficient documentary evidence that the accident has occurred due to rash and negligent driving of the offending bus. However, the revision is liable to be dismissed.

8. Accordingly, the revision is dismissed.

Sd/-

Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Additional District Judge,
Krishnakiri.
2. The District Munsif Cum Judicial Magistrate,
Denkanikottai.
3. The Public Prosecutor,
High Court, Chennai - 104.

+1cc to Mr.M.Selvam, Advocate, S.R.No.70644

Cr1.R.C.No.1363 of 2013

SVI (CO)

RRS (02/05/2019)

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