

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.733 of 2013

Dhanushkodi

...Petitioner

Vs.

State Represented by
The Sub Inspector of Police
Kanchi Taluk Police Station,
Kanchipuram District.
Cr.No.1275 of 2004

...Respondent

PRAYER: This Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to set aside the Judgment in C.A. No.21 of 2012 dated 20.12.2012 of the Sessions Judge, No.II, Kanchipuram, Kanchipuram Division, confirmed by the Judicial Magistrate No.II, Kanchipuram, Kanchipuram Division dated 25.05.2012 in S.T.C.No.1779 of 2005 and call for the records and acquit the petitioner from all the charges.

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For Petitioner : Mr.R.Anbalagan

For Respondent: Mr.R.Ravichandran
Govt. Advocate (Crl. Side)

ORDER

The Criminal Revision Case has been filed by the petitioner/accused to set the Judgment in C.A.No.21 of 2012 dated 20.12.2012 passed by the learned Sessions Judge No.II, Kanchipuram.

2. The respondent police has filed the charge sheet against the revision petitioner for the offences punishable under Sections 279, 337(26 counts), 338(4 counts) of IPC before the learned Judicial Magistrate II, Kanchipuram and the same was taken on the file in S.T.C.No.1779 of 2005.

3. The case of the prosecution is that on 25.10.2004, at 13.45 hrs, the revision petitioner drove the government bus bearing registration no.TN 23 N 1393 from Chennai to Cheyyar. While reaching the Paalar river bridge, the revision petitioner dashed against the right side of the road and fallen into 20 feet crater against which P.Ws.1 to 30 were sustained with injuries. Out of it Mr.Venkatesan, Karunamoorthy, Sundaramoorthy and Perumal were sustained with grievous injuries. Therefore the respondent police has filed the case against the revision petitioner under Sections 279, 337(26 counts),

338(4 counts) of IPC before the learned Judicial Magistrate II, Kanchipuram and the same was taken on the file in S.T.C.No.1779 of 2005.

4. After giving due opportunity to both the sides, the learned Judicial Magistrate II, Kanchipuram, found that the revision petitioner has committed an offence punishable under Sections 279, 337(26 counts), 338(4 counts) of IPC and punishment u/s 279 of IPC to pay a fine of Rs.500/- in default to undergo one month Simple Imprisonment, u/s 337 of IPC to pay a fine of Rs.500/- for each counts, in default to undergo one month Simple Imprisonment for each counts and u/s 338 of IPC, to pay a fine of Rs.1,000/-, in default to undergo one month Simple Imprisonment for each counts .

5. Aggrieved against the order of the learned Judicial Magistrate II, Kanchipuram, in C.C.No.1779 of 2005 dated 25.05.2012, the revision petitioner preferred an appeal before the learned Sessions Judge, No.II, Kanchipuram, Kanchipuram Division, in C.C.No.21 of 2012.

6. The learned Sessions Judge, No.II, Kanchipuram, after hearing both sides, dismissed the appeal and confirmed the sentence imposed on the petitioner.

7. Against the Judgment of the lower appellate Court in C.A.No.21 of 2012, dated 20.12.2012, the petitioner is before this Court with this Criminal Revision Case.

8. The learned counsel for the petitioner would submit that the accident was not due to rash and negligent driving of the petitioner. The prosecution side witnesses also categorically stated during the cross examination that the accident took place due to irregular maintenance of the road conditions and ditches. Further he would submit that the accident had happened only on the ground of mechanical defect and not on the rash and negligent driving of the revision petitioner. The learned Judicial Magistrate II, Kanchipuram, failed to consider the prosecution side witnesses. The learned Sessions Judge also not properly appreciated the evidence independently and simply confirmed the judgment of the trial Court. Therefore, he prays to set aside the order passed by the learned Sessions Judge, No.II, Kanchipuram, Kanchipuram Division, in C.A.No.21 of 2012.

9. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the accident had taken place purely on the part of the revision petitioner, more particularly, due to rash and negligent driving of the bus driver/revision petitioner. The prosecution side witnesses have clearly spoken about the accident and how it has happened. The Motor Vehicle Inspector report, which is marked as Ex.P.2, has clearly stated that the accident was not on the mechanical defect. Therefore, there is no perversity in the order passed by both the Courts below. Hence the Criminal Revision Case may be dismissed.

10. Heard the rival submissions made on either side and perused the materials available on record.

11. Being the Revision Court, this Court cannot sit as an Appellate Court and re-appreciate the entire evidences and materials available on record. However, this Court can highlight and rectify any perversity in the judgment passed by the Lower Appellate Court. This Court perused the judgment passed by the trial court as well as the Lower Appellate Court. This Court has not find any perversity in the judgment passed by the Lower

Appellate Court. In this regard, it is pertinent to refer the decision of the Honourable Apex Court in the case of *State of Kerala Vs. Putthumana Illath Jathavedn Namboodri*, reported in AIR 1999 SC 981 held as follows:

“.... In its revisional jurisdiction, the High court can call for and examined the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or property of any finding, sentence or order. In other words, the jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of Second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already be appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of Justice...”

12. In the result, the judgment passed by the learned Sessions Judge, No.II, Kanchipuram, Kanchipuram in C.A.No.21 of 2012 dated 20.12.2012 is confirmed and the Criminal Revision Case is dismissed.

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Index : Yes/No
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To

1. The Sessions Judge, No.II,
Kanchipuram,
Kanchipuram Division.
2. The Public Prosecutor,
High Court of Madras.
3. The Sub Inspector of Police
Kanchi Taluk Police Station,
Kanchipuram District.



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P.VELMURUGAN, J.,
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