

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

CORAM :

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1017 of 2012

Arumugam

... Petitioner

Vs.

The State,
Rep. By the Inspector of Police,
Karumathampatti Police Station,
Crime No.119 of 2006.

... Respondent

PRAYER : The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the judgment in Crl.A.No.41 of 2012 on the file of the learned VII Additional District and Sessions Judge-cum-Fast Track Court-V, Thiruppur, dated 21.06.2012, modifying the judgment made in C.C.No.141 of 2006 by the learned Judicial Magistrate, Avinasi dated 19.01.2012.

For Petitioner

: Mr.R.Rajan for
Mr.G.Nedunchezhiyan

For Respondent

: Mr.T.Shanmuga Rajeswaran
Govt. Advocate (Crl. Side)

ORDER

This revision has been filed to set aside the judgment in Crl.A.No.41 of 2012, dated 21.06.2012, passed by the learned VII Additional District and Sessions Judge-cum-Fast Track Court-V, Thiruppur, modifying the judgment in C.C.No.141 of 2006, dated 19.01.2012 passed by the learned Judicial Magistrate, Avinasi.

2. The respondent police registered a case against the revision petitioner for the offence under Section 279 and 304(A) IPC. After investigation, the respondent police laid charge sheet before the learned Magistrate, Avinasi and the same was taken on file in C.C.No.141 of 2006. After full-fledged trial, the learned Magistrate found the accused guilty for the offences under Section 279 and 304(A) IPC and convicted and sentenced him to undergo one week simple imprisonment and to pay a fine of Rs.500/-, in default, to undergo one week simple imprisonment for the offence under Section 279 IPC; convicted the petitioner and sentenced him to undergo two year rigorous imprisonment and to pay a fine of Rs.5000/-, in default, to undergo one month simple imprisonment for the offence under Section 304(A) IPC.

3. Challenging the order passed by the learned Judicial Magistrate in C.C.No.141 of 2006 dated 19.01.2012, the petitioner has filed an appeal before the learned VII Additional District and Sessions Judge, FTC-V, Thiruppur in C.A.No.41 of 2012. After hearing the arguments and considering the oral and documentary evidence, the learned Sessions Judge, confirmed the conviction and modified the sentence from two years rigorous imprisonment to one year rigorous imprisonment.

4. Challenging the said judgment dated 21.06.2012 in C.A.No.41 of 2012 passed by the learned VII Additional District and Sessions Judge, FTC-V, Thiruppur, the petitioner has preferred the present revision before this Court.

5. The learned counsel for the petitioner would submit that though the petitioner admitted the accident. The accident occurred not due to the rash and negligent driving on petitioner's part, but due to the motorist's rashness. The learned counsel, therefore, prayed that the revision may be allowed.

6. The revision petitioner was examined as R.W.1 and he has admitted the accident. But he denied the manner of the accident and negligence on his part. However, both the Courts below have believed the evidence of the prosecution witnesses and came to the conclusion that the accident had occurred due to the rash and negligent riding of the rider i.e. the revision petitioner. The revision petitioner has however, denied the manner of the accident. Since both the courts have found that the accident has occurred due to rash and negligence, this Court being a revisionary Court, while exercising the revisionary power, cannot re-appreciate the entire evidence as appellate Court. While deciding a revision, this Court has to see as to whether there is any perversity in appreciating the evidence by the Courts below.

7. No doubt, the revision petitioner himself admitted the accident. But he denied the manner of the accident. The prosecution eyewitnesses have spoken about the manner of the accident. The lower appellate Court is final court of fact finding and it appreciated the evidence and came to the conclusion that the accident had occurred due to rash and negligent riding of the rider of the motor cycle namely the revision petitioner.

8. This Court does not find any perversity in appreciation of the evidence. However, the learned counsel for the petitioner fairly conceded the accident and prayed to modify the quantum of the sentence. On reading of the evidence of R.W.1, it is seen that the revision petitioner himself called to the ambulance and with the help of his son, took the injured to the hospital and gave first aid. Further, the vehicle involved in the accident is only T.V.S. Champ. However, the prosecution has established that the revision petitioner did not have driving license at the time of the accident for riding the vehicle. Therefore, there is no merit in the revision and this Court confirms the conviction recorded by both the Courts below. However, this Court finds that the accident is not an intentional one and considering the age of the revision petitioner, the sentence of one year rigorous imprisonment is modified as three months, which will meet the ends of justice.

9. With the above observations and modification, this Criminal revision is dismissed.

26.07.2019

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order

P.VELMURUGAN.J.,

rli

To

1. The VII Additional District and Sessions Judge cum-Fast Track Court-V,
Thiruppur
2. The Judicial Magistrate, Avinasi.
3. The Inspector of Police,
Karumathampatti Police Station.
4. The Public Prosecutor,
High Court, Madras.



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