

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.RC.No.1505 of 2012
and
Cr1.M.P.Nos.1&2 of 2012

G.Sekar

...Petitioner

Vs

State Rep., by,
The Inspector of Police,
Kaveripakkam Police Station,
Vellore District.
Crime No.281 of 2009

...Respondent

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records on the file of the Learned II Additional District and Sessions Judge, Ranipet, Vellore District in C.A.No.175 of 2010 dated 18.10.2012 and confirming the judgment and sentence passed in C.C.No.107 of 2009 on the file of the learned District Munsif cum Judicial Magistrate, No-1, Walajapet, Vellore District, dated 04.08.2010 and set aside the judgment dated 18.10.2012.

For Petitioner : Ms.M.Subhasree for
Mr.E.Kannadasan

For Respondent : Mr.R.Shanmugarajeswaran
Government Advocate (Criminal Side)

ORDER

The respondent police registered the case against the petitioner/accused for the offence under Section 279, 338 and 304 (A) IPC, in crime No. 281 of 2009 on the file of the Kaveripakkam Police Station, Vellore District. After, completion of the investigation the respondent police laid charge sheet before the learned District Munsif cum Judicial Magistrate, No-1, Walajapet. The learned District Munsif cum Judicial Magistrate, No-1, Walajapet, taken cognizance of the charge sheet on file, in C.C.No.107 of 2009. After completion of trial and upon perusing

the relevant evidence, found the petitioner/accused guilty for the offence under Sections 279, 338 and 304(A) IPC, and imposed a fine of Rs.1,000/- for the offence under Sections 279, 338 IPC and for the offence under Section 304(A) IPC, sentenced him to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.3,000/- in default to undergo 1 month simple imprisonment. Challenging the said order of the learned District Munsif cum Judicial Magistrate, No-1, Walajapet, the petitioner/accused filed an appeal before the learned Principal District and Sessions Judge, Vellore, in CrI.A.No.175 of 2010 and the same was made over to the learned II Additional District and sessions Judge, Ranipet.

2 The learned II Additional District and Sessions Judge, Ranipet, after hearing the arguments and perusal of the records, dismissed the appeal and confirmed the Judgment passed by the learned District Munsif cum Judicial Magistrate, No-1, Walajapet, in C.C.No.107 of 2009. Challenging the said judgment, the petitioner/accused has filed the present revision case before this Court.

3 The learned counsel for the petitioner would submit that the accident has not taken place due to the rash and negligent driving of the offending vehicle/revision petitioner. Both the Courts have wrongly convicted the petitioner/accused, which warrants interference by this Court.

4 The learned Government Advocate (Criminal Side) appearing for the respondent would submit that both the Courts have rightly appreciated the evidence. P.W.1 and P.W.5 are the eye witnesses, the Motor Vehicle Inspector inspected the vehicle and gave a report. Ex.P9 and Ex.P10 clearly shows that the accident had not taken place due to the mechanical defect. The prosecution has proved its case beyond reasonable doubt, which does not warrant any interference by this Court.

5 Heard the learned counsel for the revision petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

6 The case of the prosecution is that on 05.05.2009 around 02.30pm, on Vellore Junction road near Sumaithangi koot road, the victim Vasu along with Mani were going in a two wheeler, at that time, a lorry bearing registration No.TN 04 M 7651 driven by the revision petitioner in a rash and negligent manner and hit behind the two wheeler as a result, the pillion rider Mani died and rider of the two wheeler Vasu suffered grievous injury. Therefore, the Inspector of Police,

Kaveripakkam Police Station filed charge sheet against the accused under Sections 279, 338 and 304(A) IPC.

7 On reading of the entire materials, the evidence of P.W.1 and P.W.5, who are the eye witnesses, have clearly spoken about the accident. Both the Courts are fact finding Courts, rightly appreciated the evidence and convicted the revision petitioner/accused for the offence under Sections 279, 338 and 304(A) IPC. The appellate Court is the final Court of fact finding, it has re-appreciated the entire evidence independently and come to the conclusion that the occurrence has taken place due to the rash and negligent driving of the driver of the offending vehicle/revision petitioner.

8 Since this Court is a revisional Court, it cannot sit in the arm chair of the appellate Court and re-assess the entire evidence. While deciding a revision, this Court has to see as to whether there is any perversity in appreciating the evidence by the Courts below. This Court finds that there is no perversity in appreciating the evidence by the trial Court as well as the appellate Court. Therefore, this Court finds that there is no merit in the revision case. Hence, this revision case is liable to be dismissed.

9 However, the accident may not be an intentional one and it is only due to the rash and negligent driving. Therefore, this Court while discussing the revision for confirming the conviction recorded by both the Courts below, inclined to modify the sentence instead of one year RI to six months RI, which would meet the ends of justice, the other conditions imposed by the Courts below remains unaltered.

10 Accordingly, this Criminal Revision Case is partly allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The learned District Munsif cum Judicial Magistrate No.1,
Walajapet,
Vellore District.

2.The learned II Additional District and Sessions Judge,
Ranipet, Vellore District.

3.The Inspector of Police,
Kaveripakkam Police Station,
Vellore District.

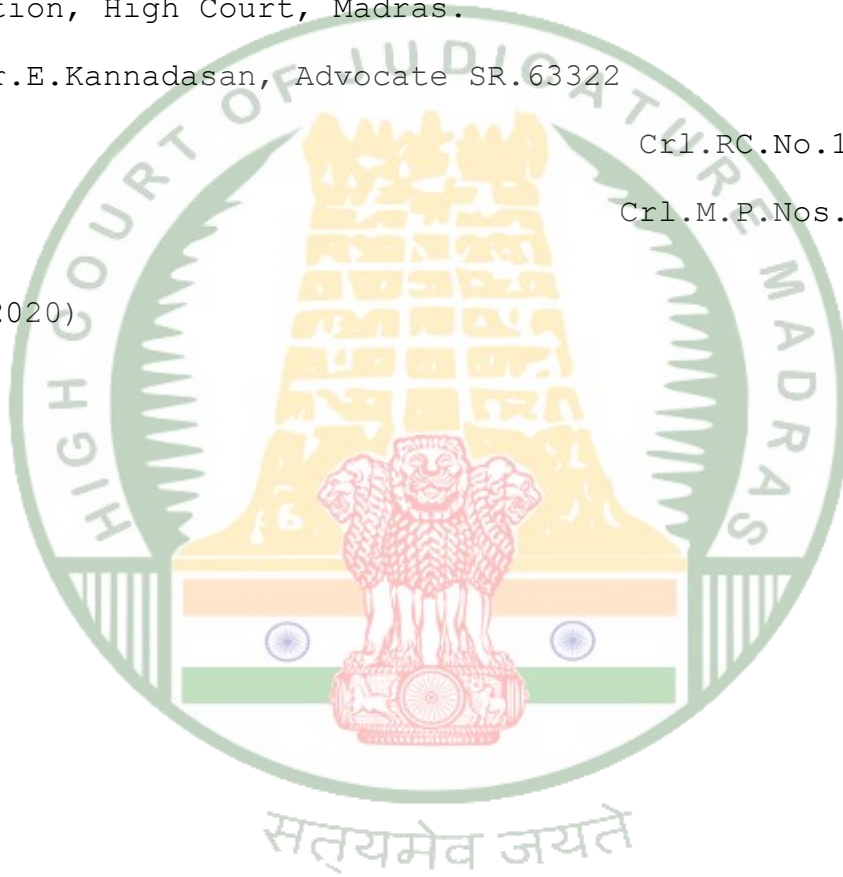
4.The Public Prosecutor,
High Court,
Chennai.

5.The Section Officer,
VR.Section, High Court, Madras.

+1cc to Mr.E.Kannadasan, Advocate SR.63322

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BR(CO)
CB(06/02/2020)



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