

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.1512 of 2012

C.Dhanraj

..

Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Mallasumudram Police Station
Namakkal District.

... Respondent/Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the judgment and order dated 13.08.2012 passed in C.C.No.507 of 2010 on the file of the Judicial Magistrate Court, Thiruchengode, confirmed by the judgment and order dated 30.11.2012 passed in C.A.No.43 of 2012 on the file of the Principal Sessions Court, Namakkal.

For Petitioner : Mr.V.Karthic
Senior Counsel for
Mr.R.Nalliyappan

For Respondent : Mrs.P.Kritika Kamal
Government Advocate
(Crl.Side)

O R D E R

सत्यमेव जयते

This criminal revision is directed against the judgment and order dated 13.08.2012 passed in C.C.No.507 of 2010 on the file of the Judicial Magistrate Court, Thiruchengode, confirmed by the judgment and order dated 30.11.2012 passed in C.A.No.43 of 2012 on the file of the Principal Sessions Court, Namakkal.

2. The facts of the case in a nutshell are as under:

2.1 It is the case of the prosecution that on 17.02.2010, around 10.30 a.m., while the deceased Srinivasan was proceeding in his TVS 50, bearing Registration No.TN-27-F-5358, in Salem to Thiruchengode main road, he was hit from behind by a TATA Indiga car, bearing Registration No.TN-29-AZ-4086, that was driven by the accused, pursuant to which, the said Srinivasan suffered head injuries and died on 18.02.2010.

2.2 In connection with the abovesaid accident, the respondent/police registered a case in Crime No.69 of 2010 for the offences under Sections 279 and 304-A IPC and after completing the investigation, filed a final report in C.C.No.507 of 2010 before the Judicial Magistrate Court, Thiruchengode, for the aforesaid offences, against the accused.

2.3 To prove the case, the prosecution examined ten witnesses and marked eight exhibits.

2.4 When the accused was questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against him, he denied the same. No witness was examined nor any document marked on behalf of the accused.

2.5 After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 13.08.2012 in C.C.No.507 of 2010, convicted and sentenced the accused as follows:

Provision under which convicted	Sentence
Section 279 IPC	Fine of Rs.1,000/-.
Section 304-A IPC	One year rigorous imprisonment.

2.6 The appeal in C.A.No.43 of 2012, filed by the accused was dismissed by the Principal Sessions Court, Namakkal, on 30.11.2012.

2.7 Challenging the concurrent findings of fact by the Courts below, the accused has preferred the present revision under Section 397 r/w 401 Cr.P.C.

3. Heard Mr.V.Karthick, learned Senior Counsel representing Mr.R.Nalliyappan, learned counsel on record for the accused and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the respondent/State.

4. The learned counsel for the accused submitted that the principal eye-witnesses have admitted that there was a speed breaker ahead and therefore, the accused could not have driven the vehicle either rashly or negligently. He further submitted that the nature of damage suffered by TVS 50 would also show that the accident would not have occurred as alleged by the prosecution.

5. Per contra, the learned Government Advocate (Crl.Side) refuted the submissions made by the learned counsel for the accused.

6. The evidence on record shows that there was a speed breaker in the road, but, the accident had taken place about 22-25 feet ahead of the speed breaker. The eye-witnesses have stated that, after collision, Srinivasan was thrown up and he fell on the bonnet of the car resulting in the breakage of windscreen glass of the car.

7. In the opinion of this Court, Srinivasan would have seen the speed breaker and would have been slowly going towards it. If the accused had seen the speed breaker himself, there would not have been possibility of him to hit the TVS 50 that was going ahead of him, resulting in Srinivasan being thrown up and falling on the bonnet of the car.

8. Both the Courts below have appreciated the evidence on record in the right perspective and this Court does not find any infirmity or perversity in the judgments and orders passed by the Courts below, warranting interference.

9. However, the learned counsel for the accused submitted that the accused is willing to pay a sum of Rs.5,00,000/- as compensation to the wife (PW2) of Srinivasan and prayed for leniency in the sentence. Therefore, the case was adjourned from 20.09.2019 to 26.09.2019.

10. On 26.09.2019, the police produced Vennila (PW2), the wife of Srinivasan before this Court, the accused was also present before this Court and he gave a demand draft for a sum of Rs.5,00,000/-, drawn in the name of Vennila (PW2). Vennila (PW2) informed this Court that she has a Savings Bank Account in the Union Bank of India, Mallasamudram Branch, Namakkal District. This Court collected the Demand Draft and had it deposited into the

account of Vennila (PW2) in the Union Bank of India, Mallasamudram Branch, Namakkal District via the Union Bank of India, Chennai Main Branch, Chennai - 108. Vennila (PW2) further informed this Court that she has a son and a daughter, who were studying and the compensation amount that was received in the M.C.O.P. proceedings, was shared with her mother-in-law.

11. Taking into consideration her family circumstances, this Court is of the opinion that the amount of Rs.5,00,000/- should not be spent immediately and therefore, this Court issues the following directions:

(i) The Branch Manager, Union Bank of India, Mallasamudram Branch, Namakkal District, is directed to transfer the sum of Rs.5,00,000/-, standing in the S.B. Account No.334202010104349 of Vennila (PW2) into a Fixed Deposit Account, in her name, for a period of three years.

(ii) The monthly interest accruing therefrom shall be credited into her (PW2's) abovesaid S.B.Account, for her use.

(iii) The Branch Manager, Union Bank of India, Mallasamudram Branch, Namakkal District, shall also obtain the necessary application, photograph, nomination and other particulars from Vennila (PW2), for opening the F.D. Account. On the expiry of three years, Vennila (PW2) will be entitled to absolutely enjoy the amount.

12. Coming to the case at hand, the conviction imposed by the Courts below, stands confirmed, but, the substantive sentence of one year rigorous imprisonment for the offence under Section 304-A IPC is reduced to a fine of Rs.10,000/-, in default to undergo one month simple imprisonment.

In the result, this criminal revision is partly allowed.

Sd/-

Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Judicial Magistrate,
Thiruchengode.
2. The Principal Sessions Judge,
Namakkal.
3. The Inspector of Police,
Mallasamudram Police Station
Namakkal District.
4. The Public Prosecutor,
Madras High Court,
Chennai - 104.
5. The Branch Manager,
Mallasamudram Branch,
Union Bank of India,
57/1-A, Dr. Subbarayan Road
Mallasamudram
Namakkal District.
6. The Branch Manager,
Chennai Main Branch,
Union Bank of India,
No.139, UBI Bhavan, II Floor,
Prakasam Salai, Broadway,
Chennai - 108.

+1cc to Mr.R.Nalliyappan , Advocate SR.No. 84439

CrI.R.C.No.1512 of 2012

A.SK(14/10/2019)

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