

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.676 of 2012

K.Karuppasamy

.... Petitioner/Accused

vs

State by,

The Sub Inspector of Police,
Traffic Investigation,
R4 Soundarapandiyanagar Police Station,
Chennai 600 017.

.... Respondent

Prayer Criminal Revision filed under Section 397 r/w 401 of Code of Criminal Procedure, against the judgment passed by the learned VI Additional Sessions Judge, Chennai, in C.A.No.222 of 2010 dated 06.03.2012 confirming the judgment and sentence passed by the learned IV Metropolitan Magistrate, Saidapet, Chennai 600 015 in C.C.No.5747 of 2010 dated 27.10.2010.

For Petitioner : Mr.K.Kannan

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Crl.Side)

JUDGMENT

The respondent police registered a case against the revision petitioner for the offence under Sections 279, 304(A) IPC and Section 187 r/w 134 (a) and (b) of Motor Vehicles Act, in Crime No.113/TN1/2010. After completion of the investigation, the respondent police laid a charge sheet before the learned IV Metropolitan Magistrate, Saidapet, Chennai. The learned IV Metropolitan Magistrate, Saidapet, Chennai, taken the case on file in C.C.No.5747 of 2010.

2 After completing trial, the learned IV Metropolitan Magistrate, Saidapet, Chennai, found the revision petitioner/accused guilty for the offence under Sections 279, 304(A) IPC and under Section 187 r/w 134 (a) and (b) of Motor Vehicles Act and convicted him as follows:

Sl.No	Under Sections	Sentences
1	304(A) IPC	One year Rigorous Imprisonment and to pay fine of Rs.3,000/- in default to undergo 6 months Rigorous Imprisonment.
2	279 IPC	To pay a fine of Rs.1,000/- in default one month Rigorous Imprisonment
3	187 r/w 134(a) and (b) of Motor Vehicles Act	To pay a fine of Rs.500/- each for the offences, in default, one week simple imprisonment.

3 Challenging the said judgment, the accused has filed the appeal before the learned Principal District and Sessions Judge, Chennai, in CrI.A.No.222 of 2010. The learned Principal District and Sessions Judge, Chennai, made over the case to the learned VI Additional Sessions Judge, Chennai.

4 After hearing the arguments, the learned VI Additional Sessions Judge, Chennai, dismissed the appeal in CrI.A.No.222 of 2010 and confirmed the judgment of the learned IV Metropolitan Magistrate, Saidapet, Chennai, passed in C.C.No.5747 of 2010. Challenging the said judgment of the learned VI Additional Sessions Judge, Chennai, the petitioner/accused filed a present Criminal Revision Case before this Court.

5 The learned counsel for the revision petitioner would submit that the accident was not happened due to the rash and negligent driving of the revision petitioner. When he was driving the vehicle from west to east at Cathedral Road, Teynampet, Near Chola Hotel, the deceased was riding the cycle from north to south, even though there is a central barricade and there was no pedestrian cross and at such circumstances, the deceased ought not to have crossed the road in the said place. But against the rules, he crossed the road through a small gap made by the Public for easy crossing in the barricade and while doing so, the deceased was hit by the vehicle and subsequently he fell down on the ground and sustained injuries. The next day he died in the hospital. In this case, P.W.2 is not an eyewitness, he is an interested witness and the Motor Vehicle Inspectors Report Ex.P11 indicates that there is a scratch on the disk of the front right side wheel of the offending vehicle Tata Sumo. Therefore, the learned trial Court as well as the appellate Court Judge, convicted the revision petitioner.

6 The learned Government Advocate (Criminal Side) appearing for the respondent would submit that on 21.03.2010 at

about 09.00 p.m., the revision petitioner was driving the Tata Sumo vehicle bearing Registration No. TN 06 9220 from west to east at Cathedral Road, Teynampet, Near Chola Hotel, in a rash and negligent manner and dashed against the deceased, who was coming in his bicycle from North to South, on the eastern side of the road. Due to the accident, the deceased sustained injuries on his head and he was admitted in the Government Hospital, Chennai. Subsequently, he was died on 22.03.2010 at about 07.55 p.m., P.W.2 is the eye witness, who has clearly spoken about the accident and the doctor evidence also corroborated the same. The prosecution has proved its case beyond reasonable doubt. Both the Courts below have rightly appreciated the evidence and convicted the revision petitioner/accused. Hence, there is no need to interfere with the judgment passed by the Courts below.

7 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.

8 The case of the prosecution is that on 21.03.2010, at about 09.00p.m., the revision petitioner/accused had driven the Tata Sumo Vehicle bearing Registration No. TN-06/9220 from west to east at Cathedral Road, Teynampet near Chola Hotal in a rash and negligent manner and dashed against the deceased, who was coming in a cycle towards north side on the eastern side of the road. Due to the accident, the deceased sustained injuries on his head, nose and mouth and he was admitted in the Government General Hospital, Chennai. On 22.03.2010 at about 07.55 p.m., the deceased was died. Hence, the revision petitioner/accused was charged under Sections 279, 304(A) IPC and 134(a) & (b) r/w 187 of Motor Vehicles Act.

9 On a careful perusal of the judgment of Courts below, it is pertinent to note that based on the complaint given by P.W.2 the respondent police registered the case against the driver of the Tata Sumo bearing registration No. TN-06/9220. The respondent police investigated the matter and laid charge sheet before the IV Metropolitan Magistrate, Saidapet, Chennai. During trial, in order to prove the case of the prosecution as many as 6 witnesses were examined, out of which P.W.2 is the eye witness who has clearly spoken about the accident and the medical evidence also corroborate the same. The evidence of P.W.2, cannot be discarded simply without any reason, since the accident had happened due to the rash and negligent driving of the revision petitioner and as a result of which, the deceased died. Therefore, the revision petitioner has committed the offence under Sections 279, 304(A) IPC and 134(a) & (b) r/w 187 of Motor Vehicles Act.

10 Both the Courts below are fact finding Courts, it can appreciate the evidence and given a finding that the revision petitioner/accused has committed the offence. While exercising the revisional jurisdiction, this Court cannot re-appreciate the entire evidences and there is no perversity in the findings recorded by the Courts below. This Court cannot substitute its own view, when there is no perversity in the appreciation of the evidence by the Courts below. However, this Court has to see whether there is any perversity in appreciation of evidence while deciding the case by the Courts below. This Court does not find any merit in the revision case and there is no sound reason and ground to interfere with the judgment of the Courts below.

11 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.

12 In the result, the Criminal Revision Case is partly allowed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The learned IV Metropolitan Magistrate,
Saidapet, Chennai.
2. The learned VI Additional Sessions Judge,
Chennai.
3. The Sub Inspector of Police,
Traffic Investigation,
R4 Police Station, Chennai 600 017.
4. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.K.Kannan, Advocate, S.R.No. 56328

CrI.RC.No.676 of 2012

SR(CO)

GN(31/01/2020)