

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.687 of 2012
and
Crl.M.P.No.1 of 2012

N.Periyasamy

...Petitioner

-Vs-

The Inspector of Police,
Kinathukadavu Police Station,
Coimbatore District.
Crime No.73 of 2007

...Respondent

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to call for the records relating to the judgment made in Crl.A.No.65 of 2012 dated 21.06.2012 on the file of the learned III Additional District Sessions Judge at Coimbatore, confirming the judgment and order of conviction of the trial Court passed in C.C.No.260 of 2007, dated 02.02.2012 on the file of the learned Judicial Magistrate-I, Pollachi.

For Petitioner : Party in person - No appearance

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

सत्यमेव जयते
O R D E R

This revision has been filed to call for the records relating to the judgment made in Crl.A.No.65 of 2012 dated 21.06.2012, on the file of the learned III Additional District Sessions Judge at Coimbatore, confirming the judgment and order of conviction of the trial Court passed in C.C.No.260 of 2007, dated 02.02.2012, on the file of the learned Judicial Magistrate-I, Pollachi.

2. The respondent police registered a case against the revision petitioner for the offence under Section 279 read with Section 304(A) of IPC and Section 184 of Motor Vehicles Act,

1988. After investigation, the respondent Police filed a charge sheet before the learned Judicial Magistrate-I, Pollachi for the abovesaid offences and the same was taken on file in C.C.No.260 of 2005. During trial, on the side of the prosecution, the respondent police have examined as many as 12 witnesses viz., P.W.1 to P.W.12 and marked 8 documents viz., Ex.P1 to Ex.P8. On the side of the defence, no oral and documentary evidence was produced. After full-fledged trial, the learned Magistrate found the accused guilty for the offence punishable under Section 279 read with 304(A) IPC and Section 4 of Motor Vehicle Act and convicted and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months simple imprisonment.

3. Challenging the order passed by the learned Magistrate-I, Pollachi in C.C.No.65 of 2012, dated 02.02.2012, the revision petitioner preferred appeal before the learned Principal district and Sessions Judge, Coimbatore in C.A.No.65 of 2012, and the same was made over to the learned III Additional District and Sessions Judge, Coimbatore. After elaborate hearing the arguments advanced on either side, the learned Additional Sessions Judge, dismissed the appeal and confirmed the judgment passed by the learned Magistrate. As against the judgment passed by the learned Sessions Judge, the revision petitioner has filed the present revision before this Court.

4. Today, there is no representation on behalf of the revision petitioner. When the matter was taken up for hearing on 12.06.2019, at request of the learned counsel for the petitioner, the matter was posted on 20.06.2019 under the caption "'for final disposal'". On 20.06.2019, when the matter was came up for hearing, the learned counsel for the petitioner has withdrawn his vakalat and direction was given to the Registry to remove the name of the counsel on record and print the name of the petitioner in the cause list, and the matter was directed to be listed on 15.07.2019. Today, though the petitioner name has been printed in the cause list, neither the petitioner, nor his counsel appeared before this Court. Since the revision is pending from 2012 and despite giving sufficient opportunities, the petitioner has not come forward to conduct his case, this Court is inclined to dispose the case after going through the records.

5. The learned Government Advocate (Crl. side) would submit that the revision petitioner is working as driver in Transport Corporation and on the date of accident i.e. 24.04.2007, at about 11.00 a.m., he drove a bus bearing registration No.TN 38 N 1257. While overtaking a mini door vehicle, the petitioner has driven the bus in a rash and negligent manner and dashed against a motor bike viz., TVS Victor bearing registration No.TN 41 K

7153 and caused injuries to the victim viz., Ravindranath. Therefore, case was registered against the petitioner and both the Courts below have rightly convicted the accused and there is no perversity in the judgments.

6. Heard the learned Government Advocate (Crl. side) and perused the materials available on record.

7. It is the case of the prosecution that on 24.04.2007 at about 11.00 a.m. Kovai to Pollachi Road, near Thamarai Kulam E.B.Office Road cross, the revision petitioner was drove the bus belongs to TNSTC bearing Registration No. TN 38 N 1257 in a rash and negligent manner. While overtaking the mini door vehicle, he dashed the motor bike bearing Registration No.TN 41 K 7153. Due to that accident, one Ravindranath, who drove the bike, died at the spot itself. Therefore, the case was registered against the petitioner for the offences under Sections 279 read with 304(A) IPC and Section 4 of Motor Vehicles Act.

8. P.W.1 is the eyewitness, who has spoken about the seen of occurrence and due to the rash and negligence of the driver, the accident has occurred and the victim died on the spot. P.W.11 is the Doctor, who has conducted the postmortem and given report, stating that due to the accident, the victim died on the spot.

9. The learned Government Advocate submitted that during the proceedings under Section 313(1)(a) Cr.P.C., the revision petitioner has admitted the accident, but he has stated that while riding the motor bike, the victim was talking with cell phone. Due to that, the accident has occurred. On the side of the defence no oral and documentary evidence was marked.

10. Once the accident is admitted, both the Courts below have elaborately discussed the evidence of P.W.1 and P.W.2 and mahazar witnesses and the postmortem report given by the Doctor, clearly shows that the accident happened only due to the rash and negligence driving of the revision petitioner. Once the trial Court and the Appellate Court rightly appreciated the evidence and came to the conclusion that the revision petitioner has committed the offences as mentioned above.

11. This Court being a revisionary Court, while exercising its revisionary jurisdiction, the scope of revision is very limited. While deciding a revision, this Court has to see as to whether there is any perversity in appreciation of the evidence by the Courts below. On a reading of the entire materials, it is seen that the revision petitioner had driven the vehicle in a rash and negligent manner and caused the accident. The road users, while riding the vehicle, should drive the vehicle with minimum speed and raise an alarm. Because, the opposite vehicle

riders can easily avoid the vehicle and accident.

12. Both the Courts below have gone through the evidence in detail and that the petitioner was at fault and found him guilty. The prosecution has proved the case with cogent and reliable evidence. Both the Courts below have given reason for conviction. Hence, the revision court cannot interfere with the judgments of both the Courts below.

13. This Court does not find any sound reason to interfere with the judgment of the Courts below and there is no merit in the present case on hand. Accordingly, this revision case is dismissed. Consequently, connected miscellaneous petitions are closed. The bail already granted by this Court stands cancelled and the trial Court is directed to take steps to secure the custody of the accused to undergo the remaining period of imprisonment, if any.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional District Sessions Judge,
Coimbatore.

2.The Judicial Magistrate-I, Pollachi.

3.The Chief Judicial Magistrate,Coimbatore

4.The Inspector of Police,
Kinathukadavu Police Station,
Coimbatore District.

5. The Public Prosecutor, High Court, Madras - 104.

Cr1.R.C.No.687 of 2012
and

Cr1.M.P.No.1 of 2012

A.SK(27/01/2020)