



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2019

CORAM :

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

**CRL. R.C. (MD) No.9 of 2019**  
**and CRL.M.P. (MD) Nos.632 & 633 of 2019**

Ramamoorthy

... Petitioner

Vs.

State Rep by  
The Inspector of Police,  
Sattur Taluk Police Station,  
Viruthunagar District.  
(Crime No.113 of 2003)

... Respondent

**Prayer:-** This Criminal Revision Case is filed under Section 397 R/W 401 of the Code of Criminal Procedure, to set aside the Judgment dated 17.08.2017, passed by the learned Principal District and Sessions Judge, Srivilliputhur, Virudhunagar District in CRL. A. No.92 of 2012, and confirming the Judgment dated 07.06.2012 in C.C.No. 104 of 2004 passed by the Judicial Magistrate Court-II, Sathur and acquit the petitioner from all the charges.

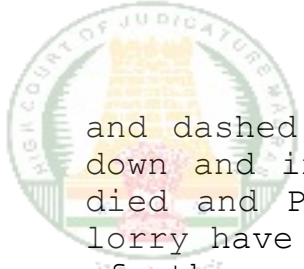
For Petitioner : Mr.G. Bhagavath Singh

For Respondent : Mr.Bharathi  
Government Advocate (Crl. Side)

### **ORDER**

This Criminal Revision Case is filed under Section 397 R/W 401 of the Code of Criminal Procedure, to set aside the Judgment dated 17.08.2017, passed by the learned Principal District and Sessions Judge, Srivilliputhur, Virudhunagar District in CRL. A. No.92 of 2012, and confirming the Judgment dated 07.06.2012 in C.C.No. 104 of 2004 passed by the Judicial Magistrate Court-II, Sathur and acquit the petitioner from all the charges.

2. The case of the prosecution is that the revision petitioner was working as driver and on 05.07.2003, at about 20.00 hours the petitioner had driven the lorry in NH-7 Main road near Chatrapatty bus stop in a rash and negligent manner and when he was attempting to overtake a bus and when this revision petitioner saw another vehicle was coming from the opposite direction he has turned the lorry right side and thereby the lorry was rolled for two times



and dashed against the wall of the Match factory and the wall fell down and in the accident one Elango who was travelled in the lorry died and Packiam and Satheeshkumar who were also travelled in the lorry have sustained simple injuries and due to the fall of the wall of the match factory, one Tavamani and Subbulakshmi who are employees of the Match factory have sustained simple injuries and another employee of the Match factory Murugeswari has sustained grievous injury. Hence, a case was registered by the Inspector of Police, Sattur Taluk Police Station in Crime No.113 of 2003 and after completing the investigation, the respondent police have filed a charge sheet against the revision petitioner, for the offences punishable under Sections 279, 337 (4 counts), 338 and 304(A) of the I.P.C.

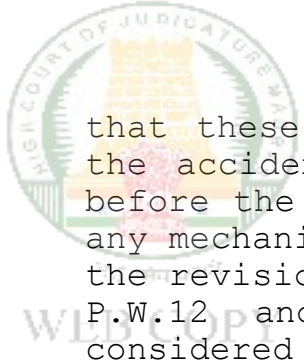
3. In order to prove the case of the prosecution on the side of the prosecution as many as 12 witnesses were examined, 12 documents were marked. After completing the prosecution evidence, when incriminating circumstances were put before the accused, the same is denied as false. On the side of the revision petitioner, no witness was examined and no document was marked.

4. After completing the trial, the trial Court convicted the revision petitioner and sentenced him to undergo Rigorous imprisonment for 1 year and also to pay a fine of Rs.1,000/-in default to undergo simple imprisonment for 3 months for the offence under Section 304(A) of the I.P.C., and sentenced to pay a fine of Rs.400/-each in default to undergo simple imprisonment for 1 month each for the offence under Section 337 (4 counts) and sentenced to pay a fine of Rs.1000/-in default to undergo simple imprisonment for 1 month for the offence under Section 338 of the I.P.C. No separate sentence was imposed by the trial Court for the offence under Section 279 of the I.P.C. as the ingredient for the offence under Section 279 of the I.P.C. included in Section 304(A) of the I.P.C and the same was confirmed by the Judgement dated 17.08.2017 in C.A. No.92 of 2012 by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, against the concurrent findings, the convict/revision petitioner has filed the present Criminal Revision Case.

5. The learned Government Advocate (Crl.Side) would submit that when attempting to overtake a town bus, the petitioner, in order to avoid to hit a vehicle which was coming from opposite direction, dashed against the wall. Therefore, a person who was sitting in the offending vehicle was dead and others were sustained injuries.

6. Heard. Perused the materials available on record.

7. In this accident 4 persons have sustained simple injuries and one person has sustained grievous injuries and one Elango was died. Exs.P.3 to P.7 are the Accident registers of the injured persons and Ex.P.8 is the post-mortem of the deceased. These exhibits and the evidences of the doctos have clearly show



that these persons have sustained injuries and one Elango died in the accident. P.W.9, Motor Vehicle Inspector has clearly deposed before the trial Court that the accident was not taken place due to any mechanical defect in the lorry. No reason stated on the side of the revision petitioner/accused to discard the evidences of P.W.1 to P.W.12 and Exs.P.1 to Ex.P.12. These points have also been considered by the Courts below and the Courts below had rightly convicted the revision petitioner. So, this Court holds that there is no need to interfere with the Judgment of the Courts below.

8. Under these circumstances, there is no merit and also no reason to interfere with the conviction by both the Courts below. However, this Court set aside the fine, considering the poverty of the revision petitioner. Under these circumstances, this Court does not find any perversity in the findings of the Court below. However, as far as the sentence is concerned, considering the mitigating circumstances, this Court modifies the sentence of 1 year imposed by the Court below on the revision petitioner as 3 months which will meet ends of Justice.

9. In view of the above, this Criminal Revision Case is partly allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal District and Sessions Court,  
Srivilliputhur, Virudhunagar District.
2. The Judicial Magistrate Court-II, Sathur
3. The Inspector of Police,  
Sattur Taluk Police Station,  
Viruthunagar District.
4. The Superintendent  
Central Prision,  
Madurai.



5. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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**25.01.2019**

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