



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.R.C. (MD) No.874 of 2011

WEB COPY

Govindaraj

... Petitioner/Appellant/Accused

Vs.

State represented by,
The Inspector of Police,
Manapparai Police Station,
Trichy District.
(Crime No.784 of 2008)

... Respondent/Respondent/Complainant

Prayer : This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the Judgment passed by the learned Additional Sessions Judge(Fast Track Court No.II), Trichy, dated 29.09.2011 in C.A.No.64 of 2011 by confirming the Judgment dated 23.06.2011 in C.C.No.273 of 2009 on the file of the learned Judicial Magistrate, Manapparai and acquit the petitioner.

For Petitioners : Mr.M.Siddharthan

For Respondent : Mr.A.Robinson,

Government Advocate(Crl.Side).

ORDER

The petitioner was driving a lorry bearing registration No.TN 31-J-7247 on 27.12.2008 at about 7.45 p.m. in Manapparai-Kulithalai road. The lorry was going from north to south direction, while so, a two wheeler ridden by the deceased Jesu was coming from the opposite direction (i.e.,) south to north. The two wheeler bearing registration No.TN 21-W-6475 and the petitioner's lorry collided against each other. In the resulting accident, Jesu died. Hence, Crime No.784 of 2008 was registered on the file of the Inspector of Police, Manapparai police station. The police filed final report against the petitioner before the learned Judicial Magistrate, Manapparai. Cognizance of the offences under Sections 279 and 304(A) of I.P.C. was taken. The petitioner pleaded not guilty to the charges framed against him and claimed to be tried. The prosecution examined as many as 7 witnesses and marked Ex.P.1 to Ex.P.8. On the side of the accused, no evidence was adduced. The learned trial Magistrate by Judgment dated 23.06.2011 found the petitioner guilty of the offence under Section 279 of I.P.C. and sentenced him to undergo 6 weeks Rigorous Imprisonment and levied a fine of Rs.250/-. The learned trial Magistrate also found the petitioner guilty of the offence under Section 304(A) of I.P.C. and sentenced him to undergo 1 year Rigorous Imprisonment and levied a fine of Rs.1,000/-. Questioning the same, the petitioner filed C.A.No.64 of 2011 before the learned Additional District Sessions Judge, Fast Track Court No.2, Thiruchirappalli. The appellate Court by Judgment dated 29.09.2011, confirmed the Judgment of the trial Court and dismissed



the appeal. Challenging the same, this Criminal Revision came to be filed.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the petitioner reiterated the contentions set out in the memorandum of grounds and called for reversal of the Judgments passed by the Courts below.

4. Per contra, the learned Government Advocate(Crl. Side) wanted this Court to sustain the Judgments passed by the Courts below and dismiss this Criminal Revision.

5. I carefully considered the rival contentions. Ex.P.1 is the complaint lodged by P.W.1 Joseph. He was an eyewitness. He had spoken in support of the prosecution case. Likewise P.W.2 was an another eyewitness. He also supported the prosecution case. Ex.P.7 is the Rough Sketch. It is seen that the two wheeler was coming from south to north while the petitioner's lorry was coming from north to south. After hitting the two wheeler, the petitioner's lorry stopped only after some distance. The head of the deceased was severed and had fallen on the eastern side of the road. The headless body of the deceased was found on the western side. The two wheeler also was found only on the west side of the road. These respective positions, namely, the two wheeler and the headless body and the head would indicate that the two wheeler was coming in the right direction, while it was the petitioner's lorry which veered towards the western side and hit the two wheeler and caused this gruesome death. The Courts below have concurrently found that the petitioner's rash driving had caused the accident in question leading to the death of Jesu.

6. I am of the view that the decisions of the Courts below do not warrant any interference. However, even while sustaining the conviction imposed on the petitioner, taking note of the lapse of time, the sentence of imprisonment is reduced from 1 year Rigorous Imprisonment to 9 months Rigorous Imprisonment. The period of imprisonment already undergone by the petitioner will be set off under Section 428 of Cr.P.C.

7. With these modifications, the Criminal Revision stands partly allowed. The learned trial Magistrate is directed to secure the petitioner to undergo the remaining period of sentence. The bail bond, if any, executed by the petitioner shall stand cancelled. No costs.

Sd/-

Assistant Registrar

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To

1. The Additional Sessions Judge
(Fast Track Court No.II), Trichy.

2. The Judicial Magistrate,
Manapparai.

3. The Inspector of Police,
Manapparai Police Station,
Trichy District.

4. The Superintendent of Police,
Trichy District.

5. The Principal Sessions Judge,
Trichy

6. The Chief Judicial Magistrate,
Trichy

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

8. The Section Officer,
Criminal Section, (2 copies)
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.M.SIDDHARTHAN, Advocate (SR-72829[F] dated 02/07/2019)

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