



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL RC(MD)No.414 of 2013

R.Selvaraj

... Petitioner / Appellant  
/ Accused

Vs.

State,  
Rep.by the Inspector of Police,  
Ayyampettai Police Station,  
Thanjavur District.

... Respondent / Respondent  
/ Complainant

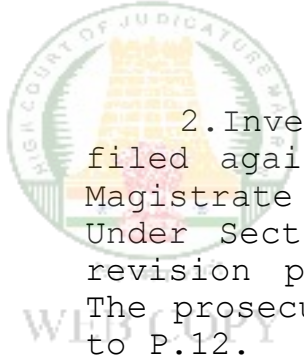
Prayer : This Criminal Revision Case is filed under Section 397 r/w.401 of Criminal Procedure Code, to set aside the order of conviction and sentence passed against him by the Principal Sessions Judge, Thanjavur in C.A No.21 of 2012 dated 31.07.2012 confirming the conviction order passed by the Judicial Magistrate No.3, Thanjavur in C.C No.11 of 2011 dated 26.04.2012 and to call for the records and acquit the petitioner.

For Petitioner : Mr.C.Selvaraj

For Respondent : Mrs.S.Bharathi,  
Government Advocate (crl.side)

### ORDER

The revision petitioner was driving a bus bearing Registration No.TN 68 N 0034 on 10.09.2010 at about 07.00 A.M in Tanjore - Kumbakonam Main Road. When the bus was crossing a place known as H.R.Garden, the accident in question had taken place. One Thirunavukarasu was riding a two wheeler bearing Registration No.TN 49 Z 6701. His wife Santha was sitting in the pillion. According to P.W.1/Thirunavukarasu who was examined as P.W.1, the driver of the bus driving the vehicle in a rash and negligent manner hit the two wheeler from behind. As a result, P.W.1 and his wife fell down and P.W.1 sustained multiple injuries and the bus ran over on his wife Santha and she also sustained serious multiple injuries on her hip, head and leg. She was immediately taken to Thanjavur Medical College Hospital in the very same bus by the petitioner herein, where she succumbed to injuries and died. In this regard, Crime No.264 of 2010 was registered on the file of the Ayyampettai Police Station.



2. Investigation was undertaken and final report came to be filed against the revision petitioner/accused before the Judicial Magistrate No.III, Thanjavur who took cognizance of the offence Under Sections 279, 337, 304(A) IPC in C.C No.11 of 2011. The revision petitioner denied the charges and claimed to be tried. The prosecution examined as many as 12 witnesses and marked Exs.P1 to P.12. The learned trial magistrate by judgment dated 26.04.2012 found the revision petitioner guilty of the offence with which he was charged and sentenced him to undergo six months simple imprisonment for the offence under Section 304 (A) IPC and he was levied with a fine of Rs.5,000/-. In respect of the other offences, he was levied with fine of Rs.5,00/- under Sections 279 and 337 IPC respectively. Questioning the same, the revision petitioner filed C.A No.21 of 2012 before the Principal Sessions Judge, Thanjavur. The first appellate court vide judgment dated 31.07.2012 dismissed the appeal and confirmed the conviction and sentence passed by the trial court. Challenging the same, this criminal revision case has been filed.

3. Heard the learned counsel on either side.

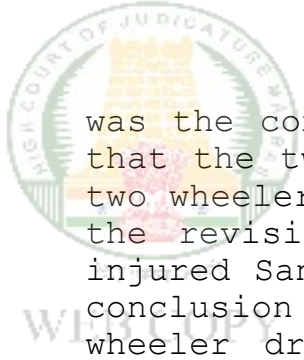
4. The learned counsel appearing for the revision petitioner drew my attention to Ex.P11 rough sketch. The bus was going from south to north in Tanjore - Kumbakonam Main Road. It is not in dispute that P.W.1 Thirunavukarasu and his wife Santha came in a two wheeler into the main road from the cut road. While P.W.1 would claim that he was going from south to north in the main road and only on account of the rash and negligent driving of the vehicle, the accident had occurred, the case of the defence is that the two wheeler had suddenly came to the main road from the cut road, namely, Thandangorai canal road.

5. The revision petitioner as the driver of the offending vehicle could have examined himself as a witness. He could have given a convincing explanation in the examination under Section 313 of Cr.PC. He did not do so. Be that as it may, this Court has to see if the prosecution had established its case beyond any reasonable doubt.

6. As rightly pointed out by the learned counsel for the petitioner, the two wheeler in question had come from the cut road ie., from the western side. The two wheeler driver Thirunavukarasu did not have driving licence. The two wheeler did not suffer any damage. Even Thirunavukarasu/P.W.1 did not suffer any major injury. In the cross examination, P.W.1 admitted that the road was having pits and a suggestion was put to Thirunavukarasu/P.W.1 that the two wheeler had suddenly come from the cut road to the main road and came in contact with the bus and as a result the two wheeler rider lost his balance and that is how the accident in question had happened.

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7. Of course, this suggestion was denied by P.W.1. P.W.7 who



was the conductor did not support the prosecution case. The fact that the two wheeler did not suffer any damage. The fact that the two wheeler rider did not have any driving licence and the fact that the revision petitioner stopped the bus immediately and took the injured Santha in the very same bus to the hospital leads me to the conclusion that it is quite possible that only because of the two wheeler driver losing his balance, the accident in question had taken place. I am of the view that the benefit of doubt will have to go to the accused in this case. The court below did not correctly appreciate the answers elicited from P.W.1 in his cross examination and also Ex.P.11 rough sketch. The judgments passed by the court below are set aside. The revision petitioner is acquitted. This criminal revision case is allowed. The bail bond if any executed by the revision petitioner shall stand cancelled. The fine amount if any remitted by the revision petitioner also stands cancelled.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Principal Sessions Judge, Thanjavur
- 2.The Judicial Magistrate No.3, Thanjavur.
- 3.The Inspector of Police, Ayyampettai Police Station,  
Thanjavur District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

CRL RC (MD) No.414 of 2013  
01.07.2019

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