



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C (MD) No.691 of 2013

D.Sivasubramaniam

... Petitioner

Vs

State represented by,
The Inspector of Police,
Kulithalai Police Station,
(Crime No.81 of 2010)

... Respondent

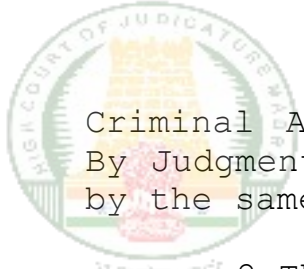
PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in the learned Sessions Judge, Karur, in C.A.No.65 of 2011, dated 17.06.2013, confirming the conviction of the learned Judicial Magistrate No.II, Kulithalai in C.C.No.51 of 2010, dated 11.10.2011 and set aside the same as illegal.

For Petitioner : Mr.P.Mahadevan

For Respondent : Mr.A.Robinson
Government Advocate (Crl.side)

ORDER

The petitioner was driving the lorry bearing Registration No.TN 39 E 8499 on 25.01.2010 at about 4.45 p.m., in Karur-Trichy Main Road. When the vehicle was nearing Kulithalai bridge, near Vasavi Mahal, the lorry driven by the petitioner hit the deceased Veeramalai causing his instantaneous death. In this regard, P.W.1-Thangaraj lodged Ex.P1-Complaint leading to registration of Ex.P4-Crime No.81 of 2010 on the file of the Inspector of Police, Kulithalai Police Station. Investigation was taken up and final report was filed against the petitioner before the learned Judicial Magistrate No.II, Kulithalai. The learned trial Magistrate took cognizance of the offence under Section 304(A) of IPC. The petitioner pleaded not guilty to the charge. The prosecution examined 13 witnesses and marked Ex.P1 to Ex.P7. The petitioner did not adduce any evidence in support of his defence. The learned trial Magistrate, by Judgment dated 11.10.2011 found the petitioner guilty of the offence under Section 304(A) of IPC and sentenced him to one year simple imprisonment and also levied a fine of Rs.5,000/-. Questioning the same, the petitioner filed



Criminal Appeal No.65 of 2001 before the Sessions Court, Karur. By Judgment dated 17.06.2013, the appeal was dismissed. Aggrieved by the same, this criminal revision case has been filed.

2.The petitioner was driving his vehicle from west to east. The deceased Veeramalai was coming from east to west. The width of the road is 20 feet. But the occurrence had taken place on the southern side. That means, the petitioner while going from west to east, had turned completely to the right and thereby, caused the death of Veeramalai. The defence of the petitioner appears to be that when he tried to overtake a vehicle, the accident had occurred. It is obvious that but for the rash and negligent driving of the petitioner, the occurrence would not have occurred. The Courts below have rightly found the petitioner guilty. The petitioner's counsel having regard to the concurrent findings, submitted that he will not be in a position to contest the finding of guilt. Ex.P5 -Rough Sketch speaks for itself.

3.At this stage, the petitioner's counsel submitted that the petitioner is the sole support for his 75 years old mother and that, if the petitioner is sent to prison, there would be nobody to support his mother. He also pointed out that he is willing to deposit a sum of Rs.50,000/- which can be paid as compensation to the wife of the deceased.

4.Taking note of these mitigating aspects, this Court, even while sustaining the conviction imposed on the petitioner, reduces the period of imprisonment from one year simple imprisonment to 65 days simple imprisonment. The petitioner is directed to deposit a sum of Rs.50,000/- on or before within a period of four weeks to the credit of C.C.No.51 of 2010 on the file of the Judicial Magistrate No.II, Kulithalai. The learned trial Magistrate shall ensure that the said amount is handed over to the wife of the victim. If the petitioner fails to do so within the time stipulated above, the sentence imposed by the trial Court will stand automatically restored.

5.With this modification in the matter of sentence, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Sessions Judge, Karur.

2.The Judicial Magistrate No.II, Kulithalai.

3.The Inspector of Police,
Kulithalai Police Station.

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

copy to

The Section Officer,
Criminal Section(Records)
Madurai Bench of Madras High Court,
Madurai-2 copies

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-72796[F] dated
02/07/2019)

rmi

Cr1.R.C (MD) No.691 of 2013
02.07.2019

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