

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

Cr1.R.C.No.502 of 2016

K.Bhavani Shankar

... Petitioner

Vs.

The Inspector of Police,
B-13, Podhanur Police Station,
Coimbatore
Coimbatore District.

... Respondent

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. against the judgment in C.A.No.173 of 2014 dated 16.11.2015 on the file of the I Additional District and Sessions Judge, Coimbatore, modifying the order passed by the Assistant Sessions Judge and Chief Judicial Magistrate at Coimbatore dated 30.10.2014 in S.C.No.130 of 2013 and acquit the petitioner / accused from all the charges.

For Petitioner : Mr.A.V.Raja

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor

सत्यमेव जयते
ORDER

The petitioner herein is the accused and the respondent herein is the complainant. A final report was filed by the respondent herein before the Judicial Magistrate No.VII, Coimbatore against the petitioner for the offences under Sections 279 and 353 IPC, Section 3(1) of the Tamil Nadu Public Properties (Prevention of Damages and Loss) Act 1992 and under Section 119 r/w 177 of the Motor Vehicles Act alleging that on 11.10.2012 the accused drove the Mercedes Benz car bearing Reg.No.TN-37-BV-4114 in a rash and negligent manner and dashed against the barricades which were laid for vehicle check up and caused damages worth Rs.5,000/- and prevented the police

officials from discharging their duties. The final report was taken on file in PRC No.18 of 2013 on the file of the Judicial Magistrate Court No.VII, Coimbatore and thereafter it was taken on file in S.C.No.130 of 2013 by the Principal Sessions Court, Coimbatore and made over to the Assistant Sessions Judge and Chief Judicial Magistrate at Coimbatore, for disposal.

2.Charges were framed and witnesses were examined on both sides. The accused was questioned regarding the incriminating oral and documentary evidence adduced on the side of the prosecution against him and he denied the same. After hearing the arguments of both sides, the Trial Court found the petitioner / accused guilty of the offence punishable under Sections 279 of IPC and 119 r/w 177 of the Motor Vehicles Act. For the offence under Section 279 of IPC, the petitioner / accused was sentenced to undergo simple imprisonment for 8 days and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for two days. For the offence under Section 119 r/w 177 of the Motor Vehicles Act, he was imposed with a fine of Rs.100/- in default, to undergo simple imprisonment for one day. On appeal, the Lower Appellate Court has confirmed the conviction and sentence imposed in respect of the offence under Section 119 r/w 177 of the Motor Vehicles Act and set aside the conviction and sentence imposed under Section 279 IPC and the fine amount was directed to be refunded back to the petitioner in respect of the offence under Section 279 of IPC.

3.Challenging the judgment of the Lower Appellate Court, the petitioner has filed the present Criminal Revision Case.

4.The learned counsel for the petitioner has submitted that the Lower Appellate Court has failed to note that under Section 302 of the Motor Vehicles Act, only Sections 184, 185 and 197 are cognizable offences, where police can arrest without warrant and the offences under Sections 119 r/w 177 of the Motor Vehicles Act can be only non-cognizable offences and hence there can be no investigation or arrest without the permission of the Magistrate. It is further submitted that the police has put the petitioner inside the prison for 8 days only with a mala fide intention.

5.The learned Additional Public Prosecutor has submitted that the Lower Appellate Court has considered the materials and evidence in a proper perspective and has passed the impugned

judgment and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the papers.

7.After a threadbare analysis of the materials and evidence available on record, the Lower Appellate Court has held that the evidence of P.W.1-Special Sub-Inspector of Police clearly indicates that a red torch light was shown directing the accused to stop the vehicle but he did not stop the vehicle. The Lower Appellate Court has perused Sub-Section 2 of Section 119 of the Motor Vehicles Act, which clearly shows that mandatory traffic sign means a traffic sign included in Part-A of the First Schedule to the said Act or any traffic sign of similar form consisting of or including a circular disk displaying a device, word or figure and having a red round or border placed or erected for the purpose of regulating motor vehicle traffic. Since it is not the case of the petitioner that the torch light that was shown is not red in colour and the torch light, being red in colour, squarely fits into the definition of mandatory traffic signal as mandated in Section 119 of the Motor Vehicles Act, the Lower Appellate Court has correctly passed the impugned judgment stating that there is no reason to interfere with the order of the Trial Court in respect of conviction under Sections 119 r/w 177 of the Motor Vehicles Act. This Court is not inclined to interfere with the said factual finding rendered by the Lower Appellate Court.

8.In the result, the Criminal Revision Case is dismissed being devoid of merits. The Trial Court is directed to secure the petitioner / accused and commit him in prison to undergo the remaining period of sentence, if any.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

KM

To

1.The I Additional District and Sessions Judge,
Coimbatore.

2.The Assistant Sessions Judge and Chief Judicial Magistrate,
Coimbatore.

3.The Public Prosecutor,
Madras High Court.

4.The Inspector of Police,
B-13, Podhanur Police Station,
Coimbatore, Coimbatore District.

+1CC to Mr.A.V.Raja, Advocate (SR.No.17588)

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CP (CO)
BRI (26.02.2020)



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