



BAIL SLIP

The Appellant/Accused Namely, Ezhumalai S/o.Mari was directed to be released on bail by the order of this court dated 08.10.2014 and made in CrI.MP.No.1/2014 in CrI.R.C.No.1014 of 2014 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 19.11.2021

Judgment Pronounced on : 24.11.2021

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CrI.R.C.No.1014 of 2014

Ezhumalai

.. Petitioner

Versus

State rep. by the Inspector of Police,
Washermanpet Traffic Investigation Wing.
(Crime No.71 of 2008)

.. Respondent

Prayer : Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C., to set aside the judgment passed in C.A.No.7 of 2013 dated 15.07.2014 on the file of the learned IV Additional District and Sessions Judge, Ponneri against the judgment passed in C.C.No.180 of 2008 dated 05.01.2013, by the learned Judicial Magistrate, Thiruvotriyur.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.L.Baskaran

Government Advocate (CrI.Side)

ORDER

This Criminal Revision Case is filed by the petitioner/accused as against the judgment of the learned Judicial Magistrate, Thiruvotriyur, dated 05.01.2013, thereby, convicting the accused for the offences under Sections 279 and 304-A of the Indian Penal Code and imposing a sentence of six months Rigorous Imprisonment each for both the offences and imposing a fine of Rs.2,000/- for the offence under Section 304-A of I.P.C and in default, to undergo Rigorous Imprisonment for a period of two months and the judgment of the learned IV Additional District and Sessions Judge, Ponneri, dated 15.07.2014 in C.A.No.7 of 2013, whereby, the conviction is confirmed and the sentence is modified as no separate sentence for the offence under Section 279 of the Indian Penal Code and



for the offence under Section 304-A of the Indian Penal Code, 15 days Rigorous Imprisonment and fine of Rs.2,000/- is imposed.

2. The case of the prosecution is that on 26.03.2008, at about 20.40 hours, the accused, who was driving a Lorry, bearing registration No.TN28 AA 4966, from South to North on Ennore Expressway Road and when he was near Nellikuppam Bus stand, the deceased Thiagarajan, who was standing on the eastern side of the road, was knocked down by the accused by the Tractor Lorry, being driven in a rash and negligent manner and said Thiagarajan fell down and sustained injuries and was taken to the hospital and thereafter, succumbed to the injuries and therefore, the accused committed offences under Sections 279 and 304-A of the Indian Penal Code.

3. P.W.1, who was the wife of the deceased, was standing along with the deceased in the spot, so as to cross the beach road. At that time, the above incident took place and therefore, she lodged a complaint, Ex.P1, based on which, a case in Crime No.71 of 2008 was registered by the Traffic Investigation Wing, Washermenpet and P.W.11 completed the investigation and laid final report before the learned Judicial Magistrate, Thiruvotriyur, proposing the accused as guilty under Sections 279 and 304-A of the Indian Penal Code.

4. Upon being questioned, the petitioner/accused herein denied the charges and stood trial. The prosecution examined the first informant/wife of the deceased as P.W.1; one Rangasamy, eye witness to the incident, as P.W.2; one Arumugam, another eye witness as P.W.3; Dr.Saravanan, who treated and had given first aid to the victim, as P.W.4; Dr.Parimala, the Surgeon, who conducted the post-mortem, as P.W.5; one Dr.Sundaram, who treated the deceased unsuccessfully and who issued the Ex.P6, death report, as P.W.6; one Vijaya Kumar, Motor Vehicle Inspector, as P.W.7, one Lognathan, the Police Constable, who accompanied P.W.9 and drew the rough sketch of the place of accident as PW8; one Jayakumar, Head Constable, who registered the case and inspected the place of accident and prepared the rough sketch along with P.W.8 as PW-9, one Balakrishna Babu, Inspector of Police, who filed alteration report, after the death of the deceased from Sections 279 and 337 of the Indian Penal Code to Sections 279 and 304-A of the Indian Penal Code and sent an Express Report in Ex.P11 as PW10; and one Naganathan, the Investigation Officer, who completed the investigation and laid the chargesheet, as P.W.11.

5. The prosecution also marked the complaint, lodged by P.W.1 as Ex.P1, the signature of P.W.2 in the Observation Mahazar as Ex.P2, the signature of P.W.3 in the Observation Mahazar as Ex.P3, the accident report as Ex.P4, the post-mortem report as Ex.P5, the death certificate as Ex.P6, the Motor Vehicle Inspection Report as Ex.P7, the First Information Report as Ex.P8, the rough sketch as Ex.P9, the observation mahazar as Ex.P10, the Express Alteration Report as Ex.P11 and the Inquest Report as Ex.P12 and the prosecution rested its case.



6. Upon questioning about the evidences and adverse materials on record under Section 313 of Cr.P.C., the accused denied the same as false evidence. Thereafter, no evidence was let in on behalf of the defence. After hearing the learned Counsel for the accused and considering the submissions on behalf of the accused, primarily, that there is no evidence linking the accused with the accident and secondly, that the accident happened because of the negligence of the accused, the Trial Court essentially reasoned that the evidence of P.W.8 would prove that it was only the accused, who had driven the vehicle and that once he is the driver and when there is no plausible explanation, which was given on behalf of the accused, as to the manner in which the accident happened especially when P.W.1 and other eye witnesses have deposed that it was because of the rash and negligent driving of the accused, the accident happened, the Trial Court came to the conclusion, rejecting the defence case and holding that the prosecution proved the commission of offence, beyond reasonable doubt and convicted the petitioner.

7. The learned Appellate Court, apart from considering conclusions of the Trial Court, independently, considered material evidence on record. Placing reliance on the rough sketch, the manner in which the accident occurred, the depositions of the eye witnesses and the mahazar witness and the medical evidence on record, affirmed the conviction of the accused under Sections 279 and 304-A of the Indian Penal Code. However, considering the nature of the offence and that as on the date of the disposal of the appeal, the appellant was 28 years old and being a driver by profession and his family members, being dependent on him, modified the sentence. The learned Appellate Court held that there need not be any separate sentence for the offence under Section 279 of I.P.C. As far as the Section 304-A of I.P.C, while confirming the fine of Rs.2,000/-, it reduced the sentence of six months Rigorous Imprisonment to 15 days Rigorous Imprisonment.

8. Therefore, the findings of the Trial Court as well as the Appellate Court, as to the guilt of the accused, is based on material evidence on record and proper appreciation of the oral and documentary evidence and there is nothing illegal or perverse in the said conclusions of the Trial Court and the Appellate Court. Therefore, the self-same contentions raised before this Court by the learned Counsel for the petitioner are without any merits and accordingly, are rejected and I uphold the conviction of the petitioner for the offence under Sections 279 and 304-A of the Indian Penal Code.

9. As far as the sentence is concerned, in my considered view that the learned Appellate Court has already modified and imposed the proper sentence, which is justifiable considering the nature of the occurrence and the age and socio-economic factors of the accused as well as the victim, and is in tune with correct legal position and sentencing policy as far as the offences under Sections 279 and 304-A of the Indian Penal Code



are concerned, relating to the facts and circumstances of the case on hand.

10. Therefore, this Criminal Revision Case is without any merits and is accordingly, dismissed.

WEB COPY

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

grs
To

1.The IV Additional District and Sessions Judge, Ponneri.

2.The Judicial Magistrate, Thiruvotriyur.

3.The Public Prosecutor,
High Court of Madras.

4.The Inspector of Police,
Washermanpet Traffic Investigation Wing.

Copy to:
The Section Officer,
Criminal Section,
High Court, Madras

Crl.R.C.No.1014 of 2014

KSM(CO)
A.SK(10.12.2021)