



BAIL SLIP

The Petitioner/Accused viz., Mohanraj S/o.Prabhakaran was released on bail as per order of this Court dated 07.03.2014 in Crl.M.P.No.1/2014 in Crl.R.C.287/2014 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 30.11.2021

JUDGMENT PRONOUNCED ON : 06.12.2021

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.287 OF 2014

Mohanraj

.. Petitioner/Accused

Versus

State by Inspector of Police,
SIPCOT Police Station,
Vellore District.
(Crime No.377 of 2009)

.. Respondent/Complainant

Prayer :

Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C., to call for the records of the learned II Additional District and Sessions Judge, Vellore at Ranipet, Vellore District made in C.A.No.11 of 2011 and set aside the judgment passed by him dated 16.08.2013 by confirming the conviction and sentence passed by the learned District Munsif, Ranipet, Vellore District made in C.C.No.84 of 2010 by judgment dated 05.01.2011 convicting the appellant/petitioner herein under Section 279 of I.P.C and 304-A of I.P.C and sentencing him to undergo Simple Imprisonment for 4 months and to pay fine of Rs.5000/- in default to undergo Simple Imprisonment for one month for the offence under Section 304-A of I.P.C and it was further ordered that out of the fine amount, Rs.3000/- to be paid as compensation to P.W.3, Vilvanathan and no separate sentence was passed for the offence under Section 279 of I.P.C.



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For Petitioner : Mr.S.Saravana Kumar

For Respondent : Mr.L.Baskaran
Government Advocate
(Criminal Side)

ORDER

This Criminal Revision Case is filed by the petitioner/accused against the judgment of the learned District Munsif, Ranipet (on confirmant of criminal jurisdiction) dated 05.01.2011 in C.C.No.84 of 2010, thereby finding the petitioner/accused guilty of the offences under Sections 279 and 304-A and fine of Rs.5,000/- in default, to undergo one month Simple Imprisonment and the judgment of the learned II Additional District and Sessions Judge, Vellore at Ranipet dated 16.08.2013 in CrI.A.No.11 of 2011, thereby confirming the conviction and sentence imposed by the Trial Court.

2. On 19.10.2009, one Yennam Saroba came to Sipcot Police Station and lodged a complaint stating that on 18.10.2009, evening about 4.45 P.M, when she was at Nellikuppam panchayat union primary school along with one Chakkaravarthy, her daughter-in-law, Selvi, was walking along the pathway near the house of one Raji and was standing in the road margin, waiting to cross the road. At that time, one Scorpio SUV, being driven in a very high speed, rash and negligent manner, hit her and on the impact, she was thrown in the air and got hit against the electrical pole and fell down and immediately, all of them took her to Ranipet S.M Hospital in the motorcycle belonging to one Subramani, where she was given first aid and was taken to C.M.C Hospital, Vellore for higher treatment, but, she was declared dead at the same hospital. On the said complaint, a case in Crime No.377 of 2009 was registered by P.W.12 and P.W.13 took up the case for investigation and laid a final report on 07.12.2009, proposing the petitioner/accused guilty for the offences under Section 279 and 304-A of Indian Penal Code.

3. The learned Trial Court took cognizance of the offences in C.C.No.84 of 2010 and upon being questioned, the accused denied the charges and stood trial.

4. During the course of the trial, the prosecution examined the first informant/mother-in-law of the deceased namely, one Saroba, who witnessed the accident as P.W.1; one Chakkaravarthy, who also witnessed the accident and was standing and taking with P.W.1 was examined as P.W.2; one Vilvanathan, the father of the deceased, who received the information over phone and reached the spot, as P.W.3; one Subramani, who took the deceased in his motorcycle for treatment as P.W.4; one Elumalai, who reached the



accident spot and saw P.W.4, taking the deceased to the hospital as P.W.5; one Dayanand, who also accompanied P.W.3 up to Ranipet hospital and thereafter, to C.M.C hospital as P.W.6; one Renu, who was the witness of the observation Mahazar as P.W.7; one Kannaiya, who was the erstwhile owner of the Scorpio vehicle involved in the accident as P.W.8; one S.Mohan, Motor Vehicle Inspector as P.W.9; one D.K.Sudhakar, Doctor, who conducted the postmortem as P.W.10; one Kumar, Head Constable attached to Sipcot Police Station, who handed over the dead body to the relatives and was present during the inquest as P.W.11; one Sankaran, Special Sub-Inspector of Police of Sipcot Police Station, who registered F.I.R and submitted it for further investigation to the investigating officer as P.W.12 and the investigation officer as PW-13.

5. The prosecution marked the complaint lodged by P.W.1 as Ex.P1; the signature of P.W.6 in the observation mahazar as Ex.P2; the signature of P.W.7 in the observation mahazar as Ex.P3; the inspection report of the motor vehicle inspector as Ex.P4; the postmortem report of the deceased as Ex.P5; the First Information Report as Ex.P6; the rough sketch as Ex.P7; the observation mahazar as Ex.P8 and the inquest report as Ex.P9 and the prosecution rested its case.

6. Upon being questioned as per section 313 of Cr.P.C., on the evidence on the record and the incriminating circumstances against the accused, the accused denied them as false. Thereafter, there was no evidence on behalf of the defence. The Trial Court proceeded to hear the Assistant Public Prosecutor for the prosecution and the learned Counsel appearing on behalf of the accused and upon considering the submissions and the materials on record, considering the rough sketch and observation mahazar and found that the same were correct and came to the conclusion that there was bend in the road near the place of the accident. Therefore, since the accused had driven the vehicle in a very high speed, rash and negligent manner, hit the deceased victim, who was standing on the margin of the road on the left hand side and the victim was thrown in the air on the impact and hit against the electric pole and the vehicle, after the accident, turned back stopped by swerving back and facing the direction from which it came. From the nature of the accident and medical evidence and the eye witnesses P.Ws.1 and 2 and the inquest report and the postmortem report, the Trial Court found that the death of the deceased, Selvi was caused by the rash and negligent driving of the accused and held that prosecution proved the case beyond reasonable doubt and convicted the petitioner/accused and imposed the sentence as mentioned above.

7. Aggrieved by the same, the petitioner/accused preferred

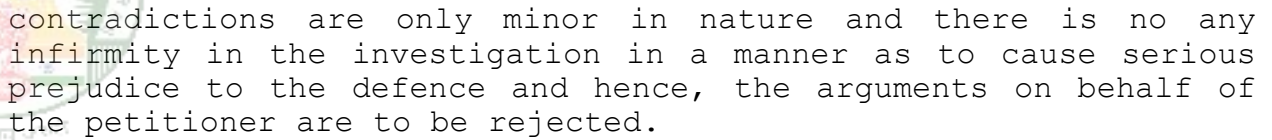


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Crl.A.No.11 of 2011 on the file of the learned II Additional District and Sessions Judge, Vellore at Ranipet and in the appeal, the petitioner submitted that there are contradictions in the evidences of P.Ws.1 and 3 and there are several discrepancies which were found in the course of the investigation and therefore, the Trial Court was in error in returning of finding of guilt. The lower Appellate Court considered the evidence and found that even considering P.W.3 and other evidences as hearsay evidence, P.Ws.1 and 2, who were present on the spot and were witnesses to the accident have deposed. P.W.1 also identified the accused as the driver of the car. Therefore, the prosecution has brought the guilt of the accused to light by examining eye witnesses and therefore, the Appellate Court found no reasons to interfere and dismissed the appeal.

8. Heard Mr.S.Saravana Kumar, Legal Aid Counsel, appearing on behalf of the petitioner. He would submit that the eye witnesses namely, P.Ws.1 and 2 did not depose about the colour of the vehicle and other particulars and there was no proper identification of the accused. P.W.2 should not also be taken as eye witness since he stated that he saw only after the sound was heard. There was absolutely no damage whatsoever on the front side of the vehicle which shows that the vehicle was not driven in a very high speed or rash manner. While the F.I.R, in this case, was registered only in the morning of 19.10.2009. P.W.12 had stated that the vehicle was removed from the scene on 18.10.2009 night itself and therefore, there is material contradiction in the investigation and the observation mahazar cannot be believed. He would further contend that P.W.4, in his evidence, deposed as if he gave complaint and therefore, the very complaint is also doubtful. Even as per the rough sketch, there were speed breakers within 100 meters and therefore, there is no way that the petitioner/accused could have driven the vehicle in a high speed. Finally, the learned Counsel would submit that the accused was aged 22 years at the time of the occurrence and now, he is aged 34 years and he is leading a law abiding life and therefore that should also be taken into account appropriately by this Court.

9. Mr.L.Baskaran, learned Government Advocate (Criminal Side) would submit that this is a case where by driving Scorpio Car in a rash and negligent manner, the petitioner/accused hit the victim and therefore, the impact was on on human body and therefore, no damage will be there at the front side of the vehicle. Similarly, immediately after the accident, the witnesses deposed that the vehicle swerved around and was standing facing the way from which it came and P.W.1 has identified the petitioner/accused as the driver who drove the Car. The eye witnesses have spoken about the incident and other



10. It is his further submission that the Motor Vehicle Inspector had inspected the vehicle and found that there is no mechanical defect and the accused has driven the vehicle in such a rash manner when there is a turn in the road and inspite of the fact that there was a speed breaker and that is how, he hit against the victim, who was standing in the left hand side of the road, awaiting to cross the road. Therefore, the Courts below have rightly convicted the petitioner.

12. It is true that as contended by the learned Counsel for the petitioner that P.W.12 has spoken that they have taken away the vehicle from the scene on the night of 18.10.2009 itself and that as per the mahazar witness, the rough sketch was being drawn on the night of 18.10.2009 itself and therefore, the same precedes the registering of the F.I.R. But, however, on a careful reading of the evidence it can be seen that Ex.P1 complaint is not the earliest information to the respondent/Police and therefore, Ex.P6, F.I.R would lose its evidential value, as per the Section 162 of Code of Criminal Procedure. However, it has been held that the said fact alone will not entitle the petitioner for acquittal. In this case, the guilt of the accused is brought forth by the prosecution by examining the witnesses in a cogent manner and the prosecution has proved the offences beyond any doubt.

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breakers does not also merit consideration because the same will only be against the accused, as inspite of speed breakers, he drove the vehicle in such a rash manner and very speed.

14. Therefore, I hold that the Trial Court and the first Appellate Court have correctly appreciated the evidence and returned the finding of guilt. Considering the age of the accused that he was only 22 years of age, the Trial Court imposed a Rigorous Imprisonment of four months and fine of Rs.5,000/- in default to undergo one month Simple Imprisonment. Considering the age of the accused that he was only 22 years of age, at the time of accident and the efflux of time, I am inclined to modify the sentence of imprisonment alone from four months Simple Imprisonment to Two months Simple Imprisonment.

15. In the result, the Criminal Revision Case is partly allowed. The conviction of the petitioner/accused for the offences under Sections 279 and 304-A of I.P.C is confirmed. However, the substantive sentence imposed on the accused for the offence under Section 304-A of I.P.C is reduced to two months and the rest of the sentence namely, the fine amount of Rs.5,000/- for the offence under Section 304-A of I.P.C is confirmed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

grs

To

1. The II Additional District and Sessions Judge,
Vellore at Ranipet, Vellore District.
2. The Principal District and Sessions Judge,
Vellore.
3. The Judicial Magistrate,
No.II, Wallajapet,Vellore.
4. The Chief Judicial Magistrate,
Vellore.
5. The District Munsif,
Ranipet, Vellore District.



6. The District Munsif cum Judicial Magistrate,
Vellore.

7. The Inspector of Police,
SIPCOT Police Station, Vellore District.

8. The Public Prosecutor,
High Court of Madras.

Copy To

The Section Officer,
Criminal Section, High Court,
Madras-104.

Cr1.R.C.No.287 of 2014

NRL (CO)
PM/14/12/2021