



BAIL SLIP

The Accused namely VENKATESAN, S/o.SHANMUGAM., was directed to be released on bail in and by the order of this Court dated 25.06.2021 made in CRL.M.P.No.7797 of 2019 in CRL.R.C.No.572 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.572 OF 2019

AND

CRL.M.P.NOS.7797 AND 7799 OF 2019

VENKATESAN

...Petitioner/Appellant/Accused

Vs.

STATE: Rep. by
The Inspector of Police
Traffic Investigation(Central)
Poonamallee
Chennai
(Cr.No.457/2011)

...Respondent/Respondent/Complainant

Prayer : Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying call for the records and set aside the Judgment of conviction passed in C.C.No.100 of 2011 dated 20.01.2017 on the file of the Judicial Magistrate-II, Thiruvallur, Thiruvalur District and confirmed in C.A.No.23 of 2017 on the file of the learned Principal Sessions Judge, Thiruvallur, Thiruvallur District.

For Petitioner : Mr.L.Mahendran

For Respondent : Mr.S.Sugendran
Government Advocate (Cr1.Side)



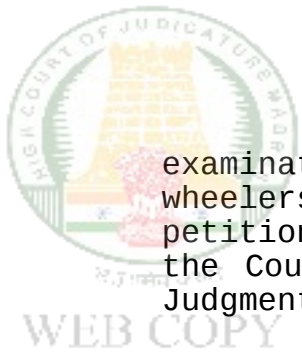
ORDER

(The case has been heard through video conference)

WEB COPY This Criminal Revision has been filed seeking to set aside the Judgment of conviction and sentence passed in C.C.No.100 of 2011 dated 20.01.2017 on the file of the Judicial Magistrate-II, Thiruvallur, Thiruvallur District which was confirmed by the learned Principal Sessions Judge, Thiruvallur, Thiruvallur District vide C.A.No.23 of 2017 dated 08.04.2019

2. The respondent police registered the case against the petitioner in Crime No.457 of 2011 for the offences punishable under Sections 279 and 304(A) IPC (2 counts) and Section 4(1)(J) of TNP ACT. After completing the investigation, the respondent police laid charge sheet before the learned Judicial Magistrate-II, Thiruvallur, Thiruvallur District and the learned Magistrate taken the charge sheet on file in C.C.No.100 of 2011 and after completing the formalities, framed charges for the offences punishable under Sections 279 and 304(A) IPC (2 counts) and Section 4(1)(J) of TNP ACT. The learned Magistrate, after completing trial, found the petitioner guilty for the offences punishable under Sections 279 and 304(A) IPC (2 counts) and Section 4(1)(J) of TNP ACT and convicted and sentenced him to undergo 6 months simple imprisonment for each count the offence under Section 304(A) IPC (2 counts) and imposed fine of Rs.500/- for the offence under Section 4(1)(J) of TNP Act, in default, to undergo simple imprisonment for a period of one week. Though, the petitioner was convicted under Section 279 IPC, no separate sentence was imposed. Challenging the said Judgment of conviction and sentence, the petitioner filed a criminal appeal before the learned Principal District and Session Judge, Tiruvannamalai, and the learned Sessions Judge taken the appeal on file in C.A.No.23 of 2017 and after hearing the arguments and re-appreciating the evidence, dismissed the appeal and confirmed the Judgment of conviction and sentence passed by the trial Court in C.C.No.100 of 2011 dated 20.01.2017. Challenging the said Judgment of dismissal of appeal dated 08.04.2019, the present revision has been filed before this Court.

3. The learned Counsel for the petitioner would submit that there is no eye witness to speak about the manner of accident. Though, P.W.1 in chief examination had stated that the accused was the cause for the accident who drove the vehicle in a rash and negligent manner and dashed against the vehicle bearing Regn.No.TN 20 AB 4041, in the cross examination he has not stated anything about the accident and he was not in a position to say the number of the vehicle which is alleged to have caused the accident. Therefore, there is a contradiction even in the own evidence of P.W.1 between his chief examination and cross



examination. He would further submit that it is a case of 2 two wheelers met with an accident due to collusion for which, the petitioner alone cannot be held liable for the accident and both the Courts below failed to appreciate the same. Therefore, the Judgments of the Courts below warrants interference.

4. The learned Government (Crl. Side) would submit that P.W.1 is the eye witness to this case and he has spoken about the manner of accident and two persons died at the spot due to the rash and negligence driving of the petitioner in a drunken state. He would submit that the drunk and drive was proved by the prosecution and thereby, the petitioner was convicted for the offence under Section 4(1)(J) of TNP Act. He would further submit that there was a long gap of about 3 years between the chief examination and the cross examination and therefore, the contradiction pointed out by the learned Counsel for the petitioner is countenance. Therefore, both the Courts below have rightly appreciated the evidence and convicted the petitioner and sentenced as stated above. Therefore, there is no merit in the revision petition and the revision is liable to be dismissed.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials on record.

6. Admittedly, the petitioner was the rider of the two wheeler bearing Regn.No. TN20 BW 2439. On the date of occurrence, he was in an inebriated condition and the prosecution proved the same and thereby, the petitioner was convicted for the offence drunk and drive under Section 4(1)(J) of TNP Act. Further, due to the drunk and drive, the petitioner dashed against a two wheeler bearing Regn.No. TN 20 AB 4041 which came in the opposite direction due to which, two persons died at the spot.

7. The case of the prosecution is that on 02.03.2011 at 20.45 hours, the petitioner / accused drove his motor cycle bearing Regn.No.TN 20 BW 2439 with a pillion rider Muthu in a high speed in a drunken mood from Thandurai to Pattabiram and dashed against the motor cycle bearing Regn.No.TN20 AB 4041 which was coming from the opposite side due to which, the rider of the motor cycle bearing Regn.No.TN20 AB 4041 by name Gopi fell down and sustained grievous injuries and died on the spot and the pillion rider of the motor cycle driven by the accused namely Muthu also fell down and sustained grievous injuries over his head and died on the spot.

8. In order to substantiate the charges, the prosecution examined P.W.1 who is the eye witness to this case and he has clearly stated that at the time of accident, the petitioner had



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driven the vehicle in a rash and negligent manner and dashed against a two wheeler bearing Regn.No. TN 20 AB 4041 which came in the opposite direction. Further, it was proved that the petitioner was in an inebriated condition at the time of accident. Therefore, the prosecution has proved that the petitioner has committed the charged offence and both the Courts below have rightly appreciated the evidence.

9. The scope of the revision is very limited. This Court cannot sit in the arm chair of the appellate Court and cannot appreciate or re-assess the evidence as trial Court and the appellate Court. As a revision Court, this Court while exercising its power, has to find out whether there is any perversity in the appreciation of evidence in the Judgments passed by the Courts below. Unless there is a perversity, the revision Court cannot interfere with the Judgments of the Courts below.

10. A careful reading of the entire evidence and materials, this Court does not find any perversity in appreciation of evidence by the Courts below. Therefore, there is no merit in the revision and the revision is liable to be dismissed.

11. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To:

1. The Principal Sessions Judge,
Thiruvallur,
Thiruvallur District.
2. The Judicial Magistrate-II,
Thiruvallur,
Thiruvallur District.
3. The Chief Judicial Magistrate,
Thiruvallur.
4. The Inspector of Police
Traffic Investigation(Central)
Poonamallee, Chennai(Cr.No.457/2011).



5. The Superintendent,
Central Prison,
Puzhal.

6. The Public Prosecutor,
High Court, Madras.

Copy To

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

+1cc to Mr.L.Mahendran, Advocate, S.R.No.44059

Criminal Revision Case No.572 of 2019

JP-II(CO)
RLP(24/09/2021)