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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Criminal Revision Case No. 546 of 2014

S.Mathivathanan

.. Petitioner

Versus

State rep. By
The Inspector of Police
Traffic Investigation Unit,
J3, Guindy Police Station, Chennai.

.. Respondent

Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure prayed to set aside the order of judgment and order passed by the learned XVIII Additional District and Sessions Court at Chennai dated 22.04.2014 in CrI.A.No.233 of 2012 and trial Court namely VI Metropolitan Magistrate-Egmore, Chennai-8 in Criminal Case No.2969/2011 (C.C.No.13048/2009 on the file of the IV M.M.Saidapet, Chennai transferred to this Court) on 30.10.2012 and direct the acquittal of the petitioner of the charge leveled against him in the interest of justice and equity.

For Petitioner : No appearance

For Respondent : Mr.L.Baskar,
Government Advocate (CrI.side)

ORDER

The petitioner has come forward with this Criminal Revision Case challenging the order passed by the learned XVIII Additional District and Sessions Court at Chennai dated 22.04.2014 in CrI.A.No.233 of 2012 confirming the order passed VI Metropolitan Magistrate-Egmore, Chennai-8 in Criminal Case No.2969/2011, dated 30.10.2012 (C.C.No.13048/2009 on the file of the IV M.M.Saidapet, Chennai).

2. The petitioner is the sole accused in C.C. No. 2969 of 2011 on the file of the V Metropolitan Magistrate Court, Egmore, Chennai. He stood charged for the offence punishable under Sections 279 and 304-A of IPC and under Section 411 r/w 177 of the Motor Vehicles Act and after trial, he was convicted for all



the offences. For the offence under Section 279 of IPC, the petitioner was convicted and sentenced to pay a fine of Rs.500/- failing which to undergo simple imprisonment for a period of three months. For the offence under Section 304-A of IPC, he was convicted and sentenced to undergo simple imprisonment for a period of one year with fine of Rs.1,000/-, failing which to undergo simple imprisonment for a period of one month. For the offence under Section 411 r/w 177 of IPC, he was convicted and sentenced to pay a sum of Rs.100/-, failing which to undergo simple imprisonment for two days. Against the above conviction, an appeal in CrI.A.No.233 of 2012 was filed by him and the same was dismissed by the Appellate Court on 22.04.2014 confirming the judgment of the trial Court. This Criminal Revision Case is filed against the aforesaid decisions of the Courts below.

3. The case of the prosecution is that, on 03.02.2009 at about 7.30 a.m., at Tharamani 100 Feet Road, opposite to the vacant site near American School, the accused being the driver of Tata Sumo Car bearing registration No.TN-21-K-6600, drove the vehicle from East to West in a rash and negligent manner on the wrong side of the Road, endangering public safety and human life and caused head-on-collision with the auto rickshaw bearing Registration No.TN-07-H-9499 which was coming from the opposite side from West to East and it had resulted in the driver of the auto namely Raja, sustaining multiple grievous injuries and was admitted in private hospital at Perungudi and on the same day, he died. In connection with this incident, the case in C.C.No.2969 of 2011 came to be registered against the petitioner for the offences punishable under Sections 279 and 304-A of IPC and under Section 411 r/w 177 of the Motor Vehicles Act.

4. During the trial, on the side of prosecution P.W.1 to P.W.10 were examined and the documents were marked as Ex.P1 to Ex.P12. Based on the oral and documentary evidence, the trial Court found the petitioner guilty of the charges and convicted him as stated above. Aggrieved by the said order, the petitioner has preferred an appeal in CrI.A.No.233 of 2012 before the XVIII learned Additional Sessions and District Judge, Chennai. On hearing both sides, the First Appellate Judge dismissed the said appeal and confirmed the conviction imposed by the trial Court. Aggrieved by the said order, the accused has preferred this Criminal Revision Case.

5. When the matter is taken up for hearing, there is no representation on behalf of the petitioner inspite of several adjournments. Heard the learned Government Advocate (CrI.Side) appearing on behalf of the respondent.

6. The learned Government Advocate (CrI.side) opposed the Criminal Revision Case and contended that the charges levelled



against the petitioner have been proved by adducing oral and documentary evidence before the Courts below. The Courts below also imposed a very meager sentence and it does not warrant interference by this Court.

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7. The prosecution bound to prove the fact of negligence on the part of the accused. PW1 was examined as eye-witness on the side of prosecution. As per his evidence, at the time of incident, he identified the accused and stated that he lodged a complaint marked as Ex.P1 before the police immediately, after the said accident on 03.02.2009. At the time he was going in his motorcycle from Perungudi to Mylapore to his place of his work, saw the Tata Sumo Car being driven at indiscriminate and with uncontrollable speed coming from opposite direction, dashed against the auto-rickshaw and caused head-on collision, which was going before him in his direction and also stated that the auto was going in front of his motorcycle and the said car was coming from opposite direction which is the wrong side of the road and dashed against the auto-rickshaw.

8. Narrating all the facts, the documents vide Ex.P1 to Ex.P12 were marked on the side of prosecution. Another witness P.W.2 also deposed that he saw the said accident. The prosecution case is corroborated by the testimony of P.W.1. and P.W.2.

9. As per the information given by P.W.2, the ambulance service was utilised and the injured was taken to the hospital and PW.1 also accompanied him. No contrary evidence was adduced on the side of accused. The prosecution established that the accused drove the Tata Sumo Car in a rash and negligent manner on the wrong side of the road and hit against the auto-rickshaw, due to which, the driver of the auto rickshaw sustained fatal injuries and died.

10. Furthermore, to prove the negligence, the prosecution relied on the documents marked. Immediately, after the said accident, complaint was given by P.W.1 and the same was marked as Ex.P1. Based upon the complaint, FIR was lodged which is marked as Ex.P8. Though there is a delay to send the FIR to the trial Court, but on the day itself, the FIR was lodged, so mere delay caused in sending the FIR to the trial Court is technical aspect, which does not require much importance.

11. As per Ex.P6, Medical Legal Register, the injured was brought by 108 ambulance and the same is proved by the evidence of PW.2. The damage to the vehicle was proved with the help of Ex.P3 and Ex.P4 (Motor Vehicle Inspection report) by examining P.W.7- Motor Vehicle Inspector, and observing witnesses were examined as P.W.5 and P.W.6 and the car belonged to P.W.4 who is



the owner of the vehicle. The prosecution, with the help of evidence, proved that the car was driven by the accused on the fateful day which was not denied by the accused during the trial. The main ingredient which requires to prove the charge levelled against the accused is proved by the prosecution with the help of the above oral and documentary evidence, which clandestinely proved that due to the rash and negligent driven on the part of the accused, the accident had happened and the said Raju sustained fatal injuries and died.

12. Having regard to the above submissions made by the learned Government Advocate (Crl.Side) and the facts and circumstance of the case, this Court is of the view that the conviction and sentence imposed on the petitioner, passed by the Courts below, are sustainable and does not warrant any interference by this Court.

13. The conviction and sentence imposed on the petitioner / accused is confirmed. The sentence imposed on him shall run concurrently. The trial court is directed to take steps to secure the custody of the accused to undergo the remaining period of sentence. The Criminal Revision Case is dismissed accordingly. The period of imprisonment already undergone by the petitioner shall be set-off under Section 428 Cr.P.C.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. The Additional District and Sessions Court No.XVIII,
Chennai.
2. The Metropolitan Magistrate No.VI
Egmore, Chennai-8.
3. The Inspector of Police,
Traffic Investigation Unit,
J-3, Guindy Police Station,
Chennai
4. The Public Prosecutor,
High Court, Madras.

Crl.R.C. No.546 of 2014

PA(CO)
HS(30/07/2021)