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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.657 OF 2014

Dhanasekaran

.. Petitioner

Versus

State of Tamil Nadu
Rep. by The Inspector of Police,
Tindivanam Police Station,
(Cr.No.212 of 2011)
Villupuram District.

.. Respondent

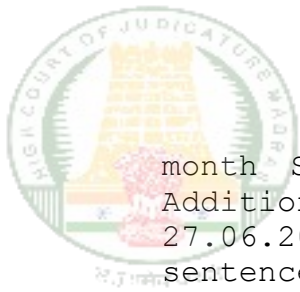
Prayer : Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C., to call for the records pertaining to the order dated 27.06.2014 made in C.A.No.80 of 2013 on the file of the I Additional District and Sessions Judge of Tindivanam confirmed the order dated 11.11.2013 in C.C.No.45 of 2013 on the file of the Judicial Magistrate Court No.I, Tindivanam, set aside the same and allow the revision.

For Petitioner : Mr.Venkataswamy Babu

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

ORDER

This Criminal Revision Case is filed by the petitioner/accused against the judgment of the learned Judicial Magistrate No.I, Tindivanam dated 11.11.2013 in C.C.No.45 of 2013, thereby convicting the petitioner/accused for the offences under Sections 279, 338, 304-A of I.P.C and imposing a fine amount of Rs.500/- for the offence under Section 279 of I.P.C in default to undergo one month Simple Imprisonment; for the offence under Section 338 of I.P.C, fine amount of Rs.1,000/- in default to undergo one month Simple Imprisonment and a sentence of six months Simple Imprisonment for the offence under Section 304-A of I.P.C and fine of Rs.1,000/- in default to undergo one



month Simple Imprisonment and the judgment of the learned I Additional District and Sessions Judge, Tindivanam dated 27.06.2014 in CrI.A.No.80 of 2013 confirming the conviction and sentence imposed by the Trial Court.

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2. On 28.04.2011, one Lakshmanan, P.W.1 lodged a complaint that on the same day, at about 5.00 P.M at Tindivanam - Chennai National Highway at M.R.S Road Junction, the accused drove the Tata Ace goods vehicle, bearing registration No.TN 32 Q 0788 without checking both sides, in a high speed and negligent manner, entered into the highway turning right hand side and hit a black colour Apachi motorcycle, bearing No.TN 32 M 8542, which was proceeding towards Chennai from Tindivanam resulting in head injury to the rider of the said motorcycle namely, one Maniraj, who succumbed to said injuries on the way to the hospital and the pillion rider, namely, one Karthik was injured on the right shoulder and leg, besides other injuries. P.W.12, Sub-Inspector of Police, Mani, registered the F.I.R and P.W.14 took up the case for investigation and laid a charge sheet proposing the petitioner/accused guilty for the offences under Sections 279, 338 and 304-A of Indian Penal Code.

3. The learned Judicial Magistrate No.I, Tindivanam took cognizance of the offence in C.C.No.45 of 2013 and issued summons to the petitioner/accused. Upon the copies being furnished and being questioned, the accused denied the charges and stood trial. The prosecution examined 14 witnesses in this case including the first informant one Lakshmanan as P.W.1 and the other injured victim, Karthik as P.W.7. The prosecution marked Exs.P1 to P10 and rested its case.

4. Upon being questioned about the evidence on record and the adverse circumstances against the accused under Section 313 of Cr.P.C., the accused denied the same. Thereafter, no evidence was let in on behalf of the defence and the Trial Court proceeded to hear the learned Assistant Public Prosecutor and the learned Counsel for the petitioner/accused.

5. The Trial Court, upon considering the evidence of P.W.2, eye witness, P.W.4, eye witness and the evidence of P.W.7, the other injured victim and the ocular witness P.W.9, and after considering the fact that the vehicle was driven in a high speed without checking out for the vehicles on both sides, it entered the highway on the wrong side of the road held that the petitioner drove in a rash and negligent manner by considering Ex.P8 rough sketch and Ex.P6 observation mahazar and therefore, concluded that the prosecution proved the charges beyond reasonable doubt and convicted the petitioner/accused and sentenced as stated above.



6. Aggrieved by the same, the petitioner/accused herein preferred Crl.A.No.80 of 2013 on the file of the learned I Additional District and Sessions Judge, Tindivanam and the learned Appellate Judge again, considering the inspection report of the Motor Vehicle Inspector and the eye witnesses namely, P.Ws.2, 3, 7 and 9, came to the independent conclusion that the vehicle was driven in a rash and negligent manner, even while confirming the findings of the Trial Court. The submissions on behalf of the petitioner/accused based the evidence of the Motor Vehicle Inspector stating that the left hand side rear corner of the vehicle was damaged, was rejected and the Appellate Court held that the said damage was in no manner in connection with the accident. The Appellate Court also confirmed the conviction and the sentence imposed by the Trial Court.

7. Heard Mr.Venkataswamy Babu, learned Counsel for the petitioner and Mr.L.Baskaran, learned Government Advocate (Criminal Side) for the respondent.

8. After taking this Court through the evidence on record, the learned Counsel for the petitioner, after arguing for some time on merits, would submit that the petitioner was 35 years of age, when the accident took place. The accident took place in the year 2011. Now, 10 years time have lapsed. The petitioner is a law abiding citizen and has not involved in any other offences, whatsoever, either prior to the said accident or subsequently. He is no more driving any vehicle, but, he is working as an agricultural coolie. The petitioner is married to one Chitra and has two female children by name Manimegalai, who is aged 18 years and studying 12th standard and Lavanya, who is aged 16 years and studying 11th standard. He would further submit that already he was incarcerated for a period of 15 days and he has also paid the fine amount. Placing these facts, he would submit that considering policy of the sentencing and considering the socio economic documents of the accused, prayed this Court to impose appropriate punishment on the petitioner by confining to the period already undergone. The learned Government Advocate (Criminal Side) confirms the manner of the accident as well as the particulars as to the period of incarceration and the family particulars and also the antecedents of the petitioner.

9. In view of the above submissions, considering the manner of the accident involving the Tata Ace Vehicle, which entered the main road suddenly dashed against the Apache motorcycle, which was proceeding towards Chennai; considering the nature of injuries to pillion rider of the two wheeler namely, P.W.7 Karthik; and rider of the bike, the deceased victim, who died because of head injury as also did not wear helmet; and



considering the fact that the accused was present in the accident spot and did not flee the scene; considering his age then and now; and his family position; taking into account that there is no antecedent; and the present socio economic condition that currently he is working only as agricultural laborer; while confirming the conviction as imposed by the Trial Court and confirmed by the lower Appellate Court, I am inclined to modify the sentence imposed for the offence under Section 304-A of the Indian Penal Code as the period which the petitioner has already undergone. The fine amounts imposed by the Trial Court are confirmed.

10. Accordingly, this Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

grs

To

1. The I Additional District and Sessions Judge,
Tindivanam.
2. The Judicial Magistrate Court No.I, Tindivanam.
3. The Inspector of Police,
Tindivanam Police Station,
Villupuram District.
4. The Public Prosecutor,
High Court of Madras.

Cr1.R.C.No.657 of 2014

GPL(CO)
RLP(16/12/2021)