



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.809 of 2014

Ramakrishna

.. Petitioner

Versus

State of Tamil Nadu

Rep. by Inspector of Police,

Erode South Police Station.

Crime No.688 of 2007

.. Respondent

Prayer : Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C., to set aside the judgment and conviction dated 14.08.2013 made in C.A.No.24 of 2013 on the file of the learned Principal Sessions Judge of Erode District at Erode confirming the judgment and conviction dated 25.03.2013 made in C.C.No.432 of 2007 on the file of the learned Judicial Magistrate No.III, Erode.

For Petitioner : Mr.M.Vignesh

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

ORDER

This Criminal Revision Case is filed by the petitioner/accused aggrieved by the judgment in C.C.No.432 of 2007 dated 25.03.2013 on the file of the learned Judicial Magistrate No.III, Erode, thereby, convicting the petitioner/accused for the offence under Section 279 of I.P.C and imposing a fine of Rs.500/-, in default of payment of fine, Simple Imprisonment for a period of one month and under Section 304-A of Indian Penal Code and sentencing him to undergo one month Simple Imprisonment and fine of Rs.2,000/- and in default to undergo two months Simple Imprisonment and the judgment dated 14.08.2013 in Crl.A.No.24 of 2013 on the file of the learned Principal Sessions Judge, Erode, thereby, confirming the conviction and modifying the sentence only in respect of default sentence and confirming the primary sentence of one month imposed on the petitioner/accused.



2. The charge against the accused is that on 05.08.2007 at about 4.00 P.M, within the limits of Erode South Police Station at Poondurai road, Nadarmedu, in front of Jyothi salon, when the deceased victim was walking along with P.Ws.1 and 2, the accused was riding Suzuki Motorcycle bearing registration No.TDX 7242 from North to South in a high speed and rash and negligent manner and in a inebriated condition, dashed the victim on the rear side and caused injuries, resulting in the death of the victim and therefore, the petitioner/accused was charged under Sections 279 and 304-A of Indian Penal Code and Section 185 of Motor Vehicles Act. Upon being summoned and questioned, the accused denied the charge and stood trial.

3. The prosecution, therefore, examined P.Ws.1 to 12 and marked Exs.P1 to P10. Upon being questioned about the statement of the witnesses and the incriminating circumstances under Section 313 of Code of Criminal Procedure, the petitioner/accused denied the same as false evidence. However, no evidence was let in on behalf of the defence. The Trial Court proceeded to hear the learned Assistant Public Prosecutor on behalf of the prosecution and the learned Counsel for the accused.

4. The Trial Court found that on the basis of the eye witnesses namely P.Ws.1 and 2 and the narration of P.W.3, concluded that the petitioner/accused drove the vehicle in a rash and negligent manner and caused the death of the victim. The Trial Court also considered the fact that the petitioner herein was neither arrested nor was sent to the medical examination so as to test whether he was in an inebriated condition and therefore, acquitted the petitioner of the charge under Section 185 of Motor Vehicles Act. The Trial Court, after considering other corroborative evidence, including observation mahazar and the report of the Motor Vehicle Inspector came to the conclusion that the prosecution has established the charge beyond any reasonable doubt and convicted the accused for the offences under Section 279 and 304-A of I.P.C and sentenced as aforementioned.

5. Aggrieved by the said judgment, the petitioner/accused preferred Crl.A.No.24 of 2013 and by judgment dated 14.08.2013, the Appellate Court once again, independently, appraised the evidence and came to the conclusion that the eye witnesses P.Ws.1 and 2 have categorically deposed against the petitioner/accused and since the defence has not made any attempt to draw any motive to falsely implicate him and considering the manner in which the accident had happened,



confirmed the offence and conclusions reached by the Trial Court. The lower Appellate Court found that the default sentence can only be up to $\frac{1}{4}$ th of the term of imprisonment awarded for the offence and therefore, it cannot be for a period of two months, while the substantiver sentence imposed is for a period of one month only and accordingly ordered the appeal. Aggrieved by the said judgment, this revision is laid by the petitioner/accused.

6. Heard Mr.M.Vignesh, learned Counsel for the petitioner/accused.

7. The learned Counsel, taking this Court through the deposition of the witnesses, would submit that it is doubtful whether P.Ws.1 and 2 could have actually witnessed the accident and also submitted that P.W.2, being wife, P.W.3, being son and also P.W.1, who is neighbour, all of them are interested witnesses. Considering the manner of the accident, there would definitely have been independent witnesses and therefore, the prosecution, having failed to examine any independent witnesses, the Trial Court and the lower Appellate Court erred in holding that the prosecution has proved the charge beyond any reasonable doubt. Alternatively, the learned Counsel also pleaded that when the accident has happened in the year 2007 and at that time, the petitioner/accused was 40 years of age and now, 14 years have gone by. Therefore, the same should also be taken into account, while deciding the Criminal Revision Case.

8. I have gone through the material evidence on record and the judgments of the Trial Court as well as lower Appellate Court. I have considered the submissions made by the learned Counsel for the petitioner. The Trial Court and the lower Appellate Court have appreciated the evidence of eye witnesses and have concluded that merely because they are interested witnesses thier evidence cannot be discarded and have appeared to be natrually witnessed the accident and upon appreciating the other corroborating evidence, have rendered the finding of guilt.

9. Under these circumstances, there is no any ground for this Court to interfere with the finding of the guilt in exercise of the revisional jurisdiction. I, therefore, confirm the finding of the guilt by the Trial Court as well as the lower Appellate Court. As far as the sentence of one month Imprisonment for the offence under Section 304-A of I.P.C is concerned, considering the submissions made by the learned Counsel for the petitioner, considering the date of accident, considering the efflux of more than fourteen years of time



between the date of accident and now, considering the age of the petitioner/accused that now he is aged 54 years and has not involved in any other offence, I am inclined to modify the sentence of imprisonment awarded by the Trial Court from the period of one month to that of 15 days simple imprisonment. The fine amount is confirmed.

10. The Criminal Revision Case is partly allowed as stated above.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Sessions Judge,
Erode District, Erode.
- 2.The Judicial Magistrate No.III, Erode.
3. do Through The Chief Judicial Magistrate,
Erode.
- 4.The Inspector of Police,
Erode South Police Station.
- 5.The Public Prosecutor,
High Court of Madras.

Cr1.R.C.No.809 of 2014

AJS (CO)
GN(23/12/2021)