



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.835 of 2019

M.Madan @ Madankumar
S/o, Madurai,

... Petitioner

Versus

The State of Tamil Nadu Rep. By
The Inspector of Police,
Traffic Investigation Unit,
K-10, Koyembedu Police Station,
Chennai - 600 107.

... Respondent

PRAYER:

Criminal Revision Petition filed under Section 397 r/w Section 401 of the Code of Criminal Procedure, to allow the Revision Petition and set aside the judgment of conviction imposed in C.A.No.237 of 2013 on the file of the VI Additional Sessions Judge, City Civil Court, Chennai dated 13.04.2017 confirming the judgment in C.C.No.19040 of 2005 on the file of the VI Metropolitan Magistrate Court, Egmore, Chennai dated 11.09.2013.

For Petitioner : Mr.C.K.M.Appaji

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

ORDER

This Criminal Revision Petition has been filed to allow the Revision Petition and set aside the judgment dated 13.04.2017 passed in C.A.No.237 of 2013 on the file of the VI Additional Sessions Judge, City Civil Court, Chennai, confirming the judgment dated 11.09.2013 passed in C.C.No.19040 of 2005 on the file of the VI Metropolitan Magistrate Court, Egmore, Chennai.

2. The respondent registered a case against the petitioner for the offence under sections 279, 304(A) I.P.C(two counts) 337 IPC (7 counts) and 184 of Motor Vehicle Act, 1988. After investigation, laid a charge sheet before the VI Metropolitan



Magistrate Court, Egmore, Chennai in C.C.No.19040 of 2005 and the learned Magistrate, after trial, found the accused guilty for the offences under Sections 279, 304-A(two counts) and 337 (seven counts) convicted I.P.C and 134(a) and (b) r/w 187 M.V Act and convicted the petitioner for the offence under section 279, 304-A (two counts) and 337 (seven counts) IPC and 134(a) and (b) r/w 187 M.V Act and sentenced him to undergo simple imprisonment for a period of two months and also to pay a fine of Rs.500/- in default to undergo simple imprisonment for a period of one month for the offence under section 279 I.P.C, sentenced to undergo simple imprisonment for a period of one year and also to pay a fine of Rs.1000/- in default to undergo, simple imprisonment for a period of one month on each count for the offence under section 304-A(two counts) and for the offence under section 337 IPC, sentenced to undergo simple imprisonment for a period of one month and also to pay a fine of Rs.500/- in default to undergo, simple imprisonment for further period of two weeks, on each count and under Section 134(a) and (b) r/w 187 M.V Act to pay a fine of Rs.500/- each in default to undergo simple imprisonment for a period of two weeks. Challenging the said judgment of conviction and sentence, he filed the appeal before the Principal Sessions Judge, Chennai in Crl.Appeal No.237 of 2013. The learned Principal Sessions Judge, Chennai made over the appeal to the VI Additional Sessions Judge, City Civil Court, Chennai, for disposal. The learned Sessions Judge, after hearing the arguments advanced on either side and perused the materials, dismissed the appeal, confirmed the judgment of conviction and sentence passed by the VI Metropolitan Magistrate Court, Egmore, Chennai. Challenging the said judgment of the appellate court, the petitioner has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that the prosecution has not proved its case beyond reasonable doubt as projected by the prosecution and the witnesses are chance witnesses and the evidence of P.Ws.1 and 2 contradicted with the complaint and also the report of the Motor Vehicle Inspector. The material contradictions would go to show that the prosecution failed to prove its case beyond all reasonable doubt. The trial court based on the presumption, assumption and on sympathy ground, convicted the petitioner. Both the Courts below failed to appreciate the contradictions between the prosecution witnesses and also the evidence of the Motor Vehicle Inspector, which warrants interference.

4. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that P.Ws.1 to 5 are eye witnesses and they were also passengers in the vehicle involved in the accident. The petitioner is the driver of the vehicle bearing Registration No.TN 65 8998 and driven the vehicle in a



rash and negligent manner and dashed against a stone on the road and therefore the vehicle got damaged, two of the passengers were died and some of the passengers were sustained injuries, subsequently the injured persons were sent to the hospital for treatment and other witnesses are also injured witnesses. Therefore, the prosecution proved its case from the oral and documentary evidence, that the accident had occurred due to rash and negligent driving of the driver of the vehicle, therefore, the trial court rightly convicted the petitioner and there is no perversity in the judgment of the both the Courts below.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the records.

6. The case of the prosecution is that on the date of occurrence, driver of the vehicle bearing Registration No.TN 65 8998 driven the vehicle in a rash and negligent manner and dashed against a stone on the road and therefore the vehicle got damaged and two of the passengers were died and some of the passengers were sustained injuries and subsequently the injured persons were sent to the hospital for treatment. Hence the complaint.

7. In order to prove the case of the prosecution, on the side of the prosecution, before the trial court, as many as 13 witnesses were examined and 19 documents were marked. No material object was marked. Out of which, P.Ws.1 to 5 are eye witnesses as well as the injured witnesses and they have clearly spoken about the accident and the manner of the accident and two of the passengers who traveled in the vehicle were died. There is no dispute in that regard. At the time of accident, the petitioner only drove the vehicle is also not disputed by him. The only thing the defence counsel has stated that the prosecution failed to prove the accident occurred due to rash and negligent driving of the petitioner and however on a reading of the evidence of eye witnesses who are also injured witnesses traveled in the vehicle, both the Courts below, found that the accident took place due to the rash and negligent driving of the driver of the vehicle bearing Registration No.TN 65 8998 and the evidence of the eye witnesses clearly shows that the TATA - 407-bearing Registration No.TN65 8998 was proceeded from west to east on Poonamalee High Road opposite to Sri Devi Hospital in a rash and negligent manner and dashed against a median in yellow colour having height of $\frac{3}{4}$ feet and capsized in opposite place where Sri Devi Hospital is situated and therefore, one Mr.Pandi and Mr. Arumugam who were seated in front seat of the vehicle entangled with the rear left wheel of the vehicle were died on the spot itself. The petitioner is the driver has not taken any contra evidence. Therefore, the prosecution has proved that the



petitioner drove the said vehicle at the time of accident in a rash and negligent manner. Due to that accident, two persons were succumbed to death and some persons were sustained injuries. Both the Courts below rightly appreciated the evidence and this Court does not find any perversity in appreciation of the evidence and there is no merit in the revision and the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The VI Additional Sessions Judge,
City Civil Court,
Chennai.
2. The VI Metropolitan Magistrate Court,
Egmore,
Chennai.
3. The Public Prosecutor,
High Court,
Madras.
4. The Inspector of Police,
Traffic Investigation Unit,
K-10, Koyambedu Police Station,
Chennai-600 107.
5. The Section Officer,
Criminal Section,
High Court, Madras.

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