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Crl.R.C.No.141 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.141 of 2020

Karmegam

... Petitioner

Vs.

State through through
The Deputy Superintendent of Police,
Veraiyur Police Station,
Thiruvannamalai District.

... Respondent

Prayer:

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., to set aside the judgment made in C.A.No.20 of 2019 on the file of the Principal District Court, Thiruvannamalai, convicting the petitioner under Section 279 of IPC to pay fine of Rs.1000/- and in default to undergo simple imprisonment for a period of one month and under Section 338(2 counts) of IPC to undergo simple imprisonment for a period of 3 months each count and to pay fine of Rs.1000/- each count and in default to undergo simple imprisonment for a period of one month each count and under Section 304(A) (6 counts) of IPC to undergo simple imprisonment for a period of 2 years each count by confirming the judgment made in C.C.No.8 of 2016 on the file of the Chief Judicial Magistrate, Thiruvannamalai.

For Petitioner : M/s.Lenin



WEB COPY



Crl.R.C.No.141 of 2020

For Respondent : Mr.R.Murthi
Government Advocate (Criminal Side)
ORDER

This Criminal Revision Case has been filed against the judgment dated 04.11.2019 passed in C.A.No.20 of 2019 on the file of the Principal District Court, Thiruvannamalai, confirming the order of conviction dated 16.05.2019 passed in C.C.No.8 of 2016 on the file of the Chief Judicial Magistrate Court Thiruvannamalai.

2. The respondent police registered the case against the petitioner for the offence under Sections 279, 338 (two counts) and 304(A) IPC (six counts). After investigation laid a charge sheet before the Chief Judicial Magistrate, Thiruvannamalai. The learned Magistrate has taken the charge sheet on file in C.C.No.8 of 2016. On completion of trial and hearing the arguments advanced on either side, the learned Magistrate found the petitioner guilty for the offence under Sections 279, 338 (two counts) and 304(A) IPC (six counts) and convicted the petitioner and sentenced to pay fine of Rs.1000/- in default to undergo one month simple imprisonment for the offence under Section 279 IPC and sentenced to undergo three months simple imprisonment (two counts) and



Crl.R.C.No.141 of 2020

to pay fine of Rs.1000/- for each count in default to undergo one month simple imprisonment (two counts) for the offence under Section 338 IPC (two counts) and further he was sentenced to undergo two years simple imprisonment (six counts) for the offence under Section 304(A) IPC (six counts). The conviction and sentence imposed by the trial Court was challenged before the learned Principal District Judge, Thiruvannamalai in Crl.Appeal No.20 of 2019 by the petitioner and the same has been dismissed vide judgment dated 04.11.2019 by confirming the judgment of the trial court. As against the judgment of dismissal passed by the appellate court, the petitioner has filed the present Criminal Revision Case.

3. Today, when the matter is taken up for hearing, learned counsel for the appellant seeks adjournment. Though opportunity was given, counsel for the appellant is not ready to argue the matter. Since the Criminal Revision Case is pending from the year 2020 and the occurrence took place in the year 2015, this Court is inclined to dispose of the Criminal Revision Case on hearing the arguments of the learned Government Advocate (Criminal Side).



CrI.R.C.No.141 of 2020

4. The case of the prosecution is that on 29.04.2015 at about 5.30 am while the victims and deceased persons of this case were standing on the left side of the road, at Thenmathur Village, near Murugan Tea Shop, the accused had driven the Government bus bearing Registration No.T.N.63 N 1653 from Thirukoilur to Tiruvannamalai in a rash and negligent manner and hit against the persons who were standing near the tea shop and due to that, six persons were died and two persons were sustained injuries. Thereby the accused had committed an offence punishable under Sections 279, 338 (two counts), 304(A) (six counts) of IPC.

5. In order to substantiate the charges levelled against the petitioner, on the side of the prosecution, totally 43 witnesses were examined as P.Ws.1 to 43 and 21 documents were marked as Exs.P1 to P 21. However, no material object was exhibited. Out of 43 witnesses, P.Ws.2,3,4,7,8 and 13 are eye witnesses in this case, who were present at the place of occurrence at the time of accident. The abovesaid witnesses have categorically stated that while they were standing around tea stall at about 5.30 am, the Government bus bearing Registration No.T.N63 N 1653 ran into the tea shop and hit against the persons



Crl.R.C.No.141 of 2020

who were standing near the tea shop and due to that eight persons were sustained injuries and two persons were died at the spot and rest of them were taken to Government Hospital, Thiruvannamalai. Soon after the accident, the driver of the bus/the petitioner herein escaped from the place. Hence the case was registered against the petitioner. Though the learned counsel for the petitioner has stated that since the wheel spring was broken and due to the same, the petitioner could control the bus and due to which, accident had occurred, P.W.38-Motor Vehicle Inspector has denied the same and reported that accident had happened not due to mechanical defect.

6. From the evidence of prosecution, it is found that the accident had occurred at about 5.30 am. The bus deviated from the main road and it was run along the mud road, where the tea stall is situated. From the evidence of prosecution and from the report of the Motor Vehicle Inspector-P.W.38, it is found that the accident had taken place only due to rash and negligent driving of the driver of the bus, namely the petitioner.

7. Both the Courts below find that the accident had happened only due



Crl.R.C.No.141 of 2020

to rash and negligent driving of the driver of the bus/petitioner herein and he was convicted and sentenced as stated above. The scope of the revision Court is very limited and it cannot act as trial court to appreciate the evidence or as the appellate court to re-appreciate or re-visit the entire evidence, unless there is a perversity in appreciation of the evidence by the Courts below. Normally, revision Court will not interfere with the findings of the appellate court. In the case on hand, both the Courts below have rightly appreciated the evidence and this Court does not find any perversity in appreciation of the evidence. This Court finds that there is no merit in the revision and the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed. Conviction and sentence imposed on the Revision Petitioner/accused by the trial court is hereby confirmed. Since the Revision Petitioner on bail, the trial court is directed to take steps to secure the custody of the accused to undergo the remaining period of sentence, if any. The period of sentence already undergone by the accused shall stand set off under Section 428 Cr.P.C.,

22.12.2022

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Internet:yes/No



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Crl.R.C.No.141 of 2020

To

1. The Principal District Judge,
Principal District Court, Thiruvannamalai.
2. The Chief Judicial Magistrate,
Chief Judicial Magistrate Court,
Thiruvannamalai.
3. The Deputy Superintendent of Police,
Veraiyur Police Station,
Thiruvannamalai District.
4. The Public Prosecutor,
High Court, Madras.



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Crl.R.C.No.141 of 2020

P.VELMURUGAN, J.

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Crl.R.C.No.141 of 2020

22.12.2022