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CRL.R.C.No.1072 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.1072 of 2018

Mahendiran

... Petitioner

Vs.

The Station House Officer,
Sankarpuram P.S.
Crime No.49 of 2015.

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set-aside the conviction and sentence imposed on the petitioner in the Judgment passed by the Court of III Additional District and Sessions Judge, Kallakurichi in C.A.No.56 of 2018 dated 13.08.2018 confirming the Judgment passed by the learned Judicial Magistrate, Sankarapuram in C.C.No.135 of 2015 dated 27.06.2018 by allowing this Criminal Revision Petition.

For Petitioner	:	Mr.C.Munuswamy for Mr.R.Arun Dattan
For Respondent	:	Mr.A.Gopinath Government Advocate (Crl. Side)

ORDER

This Criminal Revision case has been filed as against the Judgment passed by the Court of III Additional District and Sessions Judge, Kallakurichi



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in C.A.No.56 of 2018 dated 13.08.2018 confirming the Judgment passed by the learned Judicial Magistrate, Sankarapuram in C.C.No.135 of 2015 dated 27.06.2018, thereby convicted the petitioner for the offences punishable under Sections 279, 337 and 304(A) of IPC.

2. The case of the prosecution is that on 07.06.2015, at about 06.30 p.m., when the defacto complainant was riding his motor cycle bearing Registration No.TN 32 AW 1270 along with his grand mother towards Erudayampattu via., Elayankanni koot road, the accused had driven the vehicle bearing Registration No.TN 32 S 7581 TATA 207 DEX in a rash and negligent manner and dashed against the two wheeler, due to which, the defacto complainant and the pillion rider were thrown out from their vehicle, the pillion driver sustained grievous injuries on her head and died on the spot. The defacto complainant also sustained fracture on his right hand. Immediately, both were taken to Government Hospital, Sankarapuram and the pillion rider was declared dead. Next day, the defacto complainant lodged a complaint and the same has been registered in Crime No.49 of 2015 for the offences punishable under Sections 279, 337 and 304(A) of IPC.

3. After completion of investigation, the respondent filed a final report



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and the same has been taken cognizance in C.C.No.135 of 2015 by the Trial Court for the offences punishable under Sections 279, 337 and 304(A) of IPC.

4. On the side of the prosecution, P.W.1 to P.W.13 were examined and Exs.P.1 to P.11 were marked. On the side of the petitioner, no one was examined and no document was marked. On a perusal of oral and documentary evidence, the Trial Court found the petitioner guilty for the offence under Sections 279, 337 and 304(A) of IPC and sentenced him to undergo three months simple imprisonment for the offence under Section 279 of IPC, three months simple imprisonment for the offence under Section 337 of IPC and 24 months simple imprisonment for the offence under Section 304(A) of IPC. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed confirming the order passed by the Trial Court. Hence, this revision.

5. The learned counsel for the petitioner would submit that there were contradictions between the prosecution witnesses. Therefore, the prosecution failed to prove its case beyond any doubt. No one had spoken that the petitioner drove the vehicle in a rash and negligent manner. The accident had also taken place in the middle of the road. Further, P.W.1 who is the injured person did not possess any valid license to drive the vehicle. Therefore, he drove the vehicle in



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the middle of the road without obeying the traffic rules and committed the accident. Only because of the rash and negligent driving of the victim, the accident had taken place. Though, the accident allegedly occurred on 07.06.2015, the victim lodged the complaint, on 08.06.2015. There is no explanation for the belated complaint. That apart, he was admitted into the Government Hospital, Villupuram and he was discharged only on 10.06.2015. Whereas, he lodged complaint on 08.06.2015. Further, all the witnesses are close relatives of the victim and all are interested witnesses. No independent witness was examined by the prosecution to prove its case beyond any doubt. The case has been foisted as against the petitioner only to claim insurance and nothing else.

6. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that P.W.1 drove his bike on the left hand side of the road. In the opposite side, the petitioner drove the vehicle in a rash and negligent manner and dashed against the two wheeler, due to which, P.W.1 and his grand mother were thrown out from the vehicle and his grand mother died on the spot. P.W.1 sustained grievous injuries on his right hand and immediately he was taken to the Government Hospital, Sankarapuram. He was treated and



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referred to higher hospital for further treatment. After the funeral of the deceased, he lodged the complaint on 08.06.2015 and admitted into the Government Hospital, Kallakurichi, on 09.06.2015. Thereafter, he was discharged from the hospital on 10.06.2015. Therefore, there was no delay and there was no contradiction with regard to lodging of complaint and admission into the hospital. P.W.6 and P.W.12 are eye witnesses and they categorically deposed that only on the rash and negligent driving of the petitioner, the accident occurred, due to which, one person died and one person sustained grievous injuries. Therefore, the Courts below rightly convicted the petitioner and nothing warrants to interfere by this Court.

7. Heard, Mr.C.Munuswamy, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the respondent.

8. Admittedly, on 07.06.2015, at about 06.30 p.m., the petitioner drove the vehicle bearing Registration No.TN 32 S 7581, TATA 207 DEX from the opposite side of Erudayampattu via., Elayankanni koot road and dashed the two wheeler which was driven by P.W.1. P.W.1 and the deceased who was a pillion rider were going to Erudayampattu. At that juncture, at Elayankanni koot road,



the accident had taken place and they were thrown out from the vehicle. The pillion rider sustained head injury and died on the spot. As far as P.W.1 is concerned, he sustained fracture on his right hand and immediately he was taken to Government Hospital, Sankarapuram and he was treated and given wound certificate, which was marked as Ex.P4. Thereafter, on 08.06.2015, he lodged a complaint before the respondent and the same was marked as Ex.P1 and the FIR was marked as Ex.P8. The rough sketch was marked as Ex.P9. On a perusal of rough sketch, it clearly shows that the accident had taken place on the left hand side of the road. Though, P.W.1 did not possess any valid license to drive the two wheeler, it does not mean that he drove the vehicle in a rash and negligent manner.

9. A perusal of deposition of P.W.1, he categorically deposed the manner in which the accident had taken place. It is also corroborated by P.W.6 and P.W.12, who are eye witnesses to the occurrence. They categorically deposed that the petitioner drove the vehicle in a rash and negligent manner and caused accident. The Doctor, who issued wound certificate to P.W.1 was examined as P.W.4. The Doctor, who conducted postmortem was examined as P.W.5. P.W.4 deposed that due to the accident, P.W.1 sustained fracture on his right hand and he was referred to another hospital for higher treatment. After lodging the



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complaint, P.W.1 was again admitted to the Government Hospital, Villupuram.

Therefore, the prosecution proved its case beyond any doubt and the Courts below rightly found the petitioner guilty for the offences punishable under Sections 279, 337 and 304(A) of IPC.

10. However, the learned counsel for the petitioner submitted that the sentences imposed on the petitioner may be reduced, considering the age of the petitioner and his future.

11. Considering the above submission, the conviction and sentence imposed on the petitioner for the offences punishable under Sections 279 and 337 of IPC are hereby confirmed. Insofar as the offence under Section 304(A) of IPC is concerned, the conviction is hereby confirmed and the sentence alone is reduced from 24 months to 12 months.

12. Accordingly, this Criminal Revision case is partly allowed.

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Index: Yes/No

Internet: Yes/No



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Speaking/Non-Speaking order
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G.K.ILANTHIRAIYAN, J

mn

To

1. The III Additional District and Sessions Judge, Kallakurichi.



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2. The Judicial Magistrate, Sankarapuram.

3. The Station House Officer,
Sankarpuram P.S.

4. The Public Prosecutor,
High Court, Madras.

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