



Crl.R.C.No.236 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.10.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No. 236 of 2021

Sakthivel

... Petitioner

Vs.

The State of Tamilnadu
Represented by
The Inspector of Police,
Chunambedu Police Station.

... Respondent

Prayer: Criminal Revision Petition filed under Section 397 & 401 of Cr.P.C., to set aside the judgment of conviction imposed in C.A.No.30 of 2016 on the file of the Principal Sessions Judge, Kancheepuram at Chengalpattu dated 23.12.2020, confirming the judgment in C.C.No.202 of 2008 on the file of the Judicial Magistrate, Maduranthagam dated 29.06.2016.

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

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

WEB COPY This Criminal Revision Case is filed against the judgment dated 23.12.2020 passed in C.A.No.30 of 2016 on the file of the Principal Sessions Judge, Kancheepuram at Chengalpattu, confirming the judgment dated 29.06.2016 passed in C.C.No.202 of 2008 on the file of the Judicial Magistrate, Maduranthagam.

2. The respondent police registered a case against the petitioner for the offence under Sections 279, 338 and 304(A) IPC read with 185 of MV Act. After investigation, laid a charge sheet before the learned Judicial Magistrate, Madhuranthakam and the learned Magistrate taken the charge sheet on file in C.C.No.202 of 2008. After trial, the learned Magistrate has come to the conclusion that the accused was found guilty and convicted him for the offence under Sections 279, 338 and 304(A) IPC and sentenced him to undergo simple imprisonment for the period of three months and to pay fine of Rs.500/- in default to undergo simple imprisonment for further period of two weeks for the offence under Section 279 IPC, and for the offence under Section 338 IPC, to undergo simple imprisonment for a period of three



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months and to pay fine of Rs.500/- in default to undergo simple imprisonment for further period of two weeks, and for the offence under Section 304(A) IPC, sentenced him to undergo simple imprisonment for a period of one year and also to pay fine of Rs.1000/- in default to undergo simple imprisonment for further period of one month. Challenging the said judgment of conviction and sentence, the petitioner herein filed an appeal in C.A.No.30 of 2016 before the learned Principal Sessions Judge, Kancheepuram at Chengalpattu. The learned Sessions Judge dismissed appeal by confirming the judgment of the Magistrate. Aggrieved over the same, the accused has filed the present Revision Petition.

3. Learned counsel for the petitioner submitted that the accident had not taken place as projected by the prosecution. Even the evidence of prosecution itself shows that the accident had not taken place due to rash and negligent driving of the petitioner. Nobody has identified the petitioner and the vehicle. P.W.8 has clearly stated that the accident had not taken place due to rash and negligent driving of the petitioner and the accident had taken place only due to sudden crossing of the road by the deceased. Both the



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Courts below failed to appreciate the evidence and wrongly convicted the petitioner. Further he submitted that the accident is not an offence unless it is proved that it had happened only due to rash and negligent driving of the petitioner. Hence, judgment of both the Courts are liable to be set aside.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that P.W.4 is the injured witness and P.Ws.1 to 3 are the eye witnesses. They have clearly spoken about the accident and also they identified the accused. They clearly stated that the accident had happened at the bus stop, not in the middle of the road. Both the Courts below rightly appreciated the evidence and there is no merit in the Criminal Revision Case and is liable to be dismissed.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.



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6. Admittedly, P.W.4 is the injured witness who is none other than the daughter of the deceased. P.W.4 stated that while deceased and P.W.4 were standing at the bus stop, a car heading towards Chunambedu was rammed on her and her mother. Due to that, her mother died at the spot itself and she sustained severe injuries. P.Ws.1 and 2 have stated that when they were standing at the bus stop, a black colour car heading towards Chunambedu from Venangupattu, in a rash and negligent manner hit against the Pannaiyammal, the deceased. From the evidence of P.W.6 /Motor Vehicle Inspector and Ex.P3 MV report, it is found that the accident had happened not due to mechanical defect of the vehicle. A reading of the entire materials, especially the evidence of injured witness, this Court does not find any perversity in the order passed by both the Courts below.

7. The scope of the revision is very limited and the revisional court while dealing with the revision has to see as to whether there is any perversity in the appreciation of evidence in the judgment. Therefore, while deciding the revision, the Revisional Court cannot sit in the arm chair of the appellate



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court and reappreciate the entire materials. On a reading of the materials, both the Courts below passed the concurrent judgment based on evidence of the injured witness. In this case, there is no perversity in the appreciation of evidence and there is no merit in the revision and the same is liable to be dismissed. Accordingly the Revision Case is dismissed.

10.10.2022

mfa

Index:yes/No

Internet:yes/No

To

1. The Principal Sessions Judge, Kancheepuram.
2. The Judicial Magistrate, Maduranthagam.
3. The Inspector of Police, Chunambedu Police Station.
4. The Public Prosecutor, High Court of Madras.

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P.VELMURUGAN, J.

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