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Crl.R.C.No.210 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.210 of 2020

Prabhakaran

... Petitioner

Versus

State Rep.by
The Inspector of Police,
Kodumudi Police Station,
Erode District,
Crime No.211 of 2010.

... Respondent

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to call for the records relating to the judgment passed by the I Additional District and Sessions Judge, Erode in Criminal Appeal No.183 of 2018 dated 17.12.2019, confirming the sentence imposed on the petitioner by the District Munsif-cum-Judicial Magistrate, Kodumudi in C.C.No.38 of 2011 dated 24.05.2018 and set aside the same and acquit the petitioner from all the charges.

For Petitioner	:	Mr.N.Palanikumar for Mr.P.Kannan Kumar
For Respondents	:	Mr.R.Murthi Government Advocate (Crl.Side)



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ORDER

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The Criminal Revision Case arises out of the concurrent findings passed in C.C.No.38 of 2011 confirmed in Crl.A.No.183 of 2018 by the learned I Additional District and Sessions Judge, Erode.

2. The case of the prosecution is that on 27.05.2010 at about 5.05 p.m on Kodumudi-Muthur road near Vaikkal shed burial ground the petitioner herein/accused carrying the passengers in a Mini Door vehicle bearing Registration No.TN 45 AF 0207 and drove the same from east to west direction in a rash and negligent manner and caused a death of one Maruthayee and caused grievous injuries to the passengers, who are travelled in the said vehicle viz., Sathyanarayanan, Bakkiyalakshmi, Saminathan and Kumaresan and also caused simple injuries to Balakrishnan, Kuppan, Chinnammal and Natarajan. Hence, the respondent/Police registered a case in Crime No.211 of 2010 for the offences under Sections 279, 337(4 counts), 338 (4 counts) and 304(A) IPC.

3. In order to prove its case before the trial Court, on the side of the prosecution, as many as 19 witnesses were examined as P.W.1 to P.W.19



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and 14 documents were marked as Exs.P1 to P14 and no material object was exhibited. On the side of the defence, no oral evidence was adduced and no documentary evidence was produced.

4. The trial Court, after hearing the arguments advanced on either side and also considering the materials available on record found that the petitioner/accused is guilty for the charged offences and he was convicted and sentenced as follows :

(i) for the conviction under Section 304A IPC, the petitioner/accused was convicted and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for a period of one month;

(ii) for the conviction under Section 337(4 counts) IPC the accused was convicted and sentenced to impose a fine of Rs.1000/-each, in default, to undergo simple imprisonment for a period of one month for each count;

(iii) for the conviction under Section 338(4 counts) IPC the accused was convicted and sentenced to impose a fine of Rs.500/-each, in default, to undergo simple imprisonment for a period of one month for each count; and



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no separate sentence was imposed for the offence under Section 279 IPC.

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5. Challenging the said conviction and sentences, the petitioner preferred an appeal in Crl.A.No.183 of 2018 before the learned I Additional District and Sessions Judge, Erode. The lower Appellate Court, as a final Court of fact finding re-appreciated the entire materials and confirmed the conviction and sentence passed by the trial Court. Aggrieved by the same, the petitioner has filed the present the revision before this Court.

6. Admittedly, the vehicle in question is a goods carrying vehicle. As per the prosecution at the time of accident totally 11 persons had travelled in the said vehicle as passengers. The injured witnesses have stated that there was a pit in the road, due to rash and negligent driving of the driver of the vehicle, the vehicle was capsized and that the accident had happened. Due to the impact, Maruthayee died and other passengers sustained simple and grievous injuries. Thereafter, the injured persons were admitted in the hospital. The Doctors, who gave treatment to the injured witnesses were examined as P.W.11, P.W.13, 15, 16 and 17. The post-mortem certificate of



the deceased Maruthayee was marked as Ex.P13, which clearly shows that she died due to accidental injuries. The Motor Vehicle Inspector, who inspected the said vehicle was examined as P.W.14 and his report was marked as Ex.P8, which clearly shows that the accident had not happened due to any mechanical defect and the vehicle is in good condition.

7. From the evidence of injured witnesses P.W.1 to P.W.10, the evidence of Doctors viz. P.W.11, P.W.13, 15, 16 and 17, Post Mortem report Ex.P13 and Motor vehicle inspection report Ex.P8 clearly show that the accident had happened only due to rash and negligent driving of the rider of the three wheeler. The trial Court after appreciating the evidence on record, convicted and sentenced them as stated above and lower Appellate Court has also re-appreciated the entire evidence confirmed the judgment of the trial Court.

8. The petitioner drove the Mini Door Vehicle bearing Registration No.TN 45 AF 0207 at the time of accident and the same was not disputed.



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The manner of the accident and the injuries sustained by the injured witnesses also not in dispute. Further, the prosecution has established its case from the evidence of the injured witnesses and Doctors.

9. Considering the facts and circumstances this Court does not find any perversity in the judgments of both the Courts below and there is no merit in the revision and the same is liable to be dismissed.

10. However, considering the fact that the petitioner is only a coolie worker and the offending vehicle is not belonging to the petitioner and a prudent man should not have allowed the persons to travel in the goods vehicle, which violates the Motor Vehicle Rules and the act of the petitioner is against the natural conduct of the prudent man. Further, in the present case the manner of accident was admitted. Therefore, considering the mitigating circumstances, since the accident had happened not intentionally, but the petitioner is responsible for the said accident and hence, the sentence imposed on the petitioner for the offence under Section 304A IPC,



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is modified from one year to six months, which would meet ends of justice.

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11. With the above modification, this Criminal Revision Case is dismissed.

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Index : Yes/No
Speaking Order/Non Speaking Order
ms

To

1. The I Additional District and Sessions Judge,
Erode.
2. The District Munsif-cum-Judicial Magistrate,
Kodumudi.
3. The Inspector of Police,
Kodumudi Police Station,
Erode District.
4. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J.

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