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Crl.RC.No.455 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2022

CORAM:

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

Crl.RC.No.455 of 2018

Ramachandran ... Petitioner/accused

Versus

State rep. by
Inspector of Police,
Mallur Police Station,
Salem District
crime No.594 of 2013 ... Respondent

PRAYER:

Criminal Revision has been filed under Section 397 r/w 401 of the Code of Criminal Procedure to set aside the judgment and conviction dated 24.01.2018 made in CA.No.89 of 2017 on the file of the III Additional Sessions Judge, Salem confirming the judgment dated 06.07.2017 made in CC.No.2 of 2014 on the file of the learned Judicial Magistrate No.VI, Salem.



Crl.RC.No.455 of 2018

injury and died on the spot. Hence, the complaint. On receipt of the said complaint, the respondent registered FIR in crime No.594 of 2013 for the offence under Sections 279 and 304(A) of IPC. After completion of investigation, final report was filed and the same has been taken cognizance by the trial court.

3. On the side of the prosecution, they examined PW1 to PW11 and marked Ex.P1 to Ex.P9. On the side of the accused, no one was examined and no documents were marked. On perusal of oral and documentary evidence, the trial court found him guilty for the offence punishable under Sections 279 and 304(A) of IPC. He was sentenced to undergo six months simple imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month simple imprisonment for the offence punishable under Section 279 of IPC and he was sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.4,000/-, in default to undergo one month simple imprisonment for the offence punishable under Section 304(A) of IPC. Aggrieved by the same, the petitioner preferred appeal and the same was also dismissed and confirmed the judgment passed by the trial court. Hence, the present criminal revision has been filed.



Crl.RC.No.455 of 2018

4. The learned counsel for the petitioner would submit that only because of the negligent driving of the bus and had put sudden break, the deceased could not able to stop his two wheeler and hit the bus. Thereafter, the lorry hit the bus due to sudden break put by the bus driver. Therefore, the deceased died due to negligence of the driver of the bus. Therefore, the prosecution failed to prove its case beyond any doubt. That apart, the sentence imposed by the courts below is high and it may be reduced, if the conviction is confirmed by this Court.

5. Per contra, the learned Government Advocate(crl.side) appearing for the respondent / police would submit that the eye witnesses were examined as PW2, PW3 and PW10. The accident had occurred only because of the negligent driving of the petitioner. The Motor Vehicle Inspector was examined as PW7 and he categorically deposed that the rear side of the bus was completely damaged and the two wheeler which was driven in between the lorry and the bus, also got damaged fully. The lorry was driven by the petitioner in a rash and negligent manner and hit the two wheeler and thereafter also hit the bus. The entire left hand side of the lorry



Crl.RC.No.455 of 2018

was damaged and as such the courts below rightly convicted the petitioner and it does not warrant any interference by this Court.

6. Heard, Mr.M.Vignesh, the learned counsel for the petitioner and Mr.A.Gopinath, the learned Government Advocate(crl.side) appearing for the respondent / police.

7. The petitioner drove the lorry bearing registration No.TAP 5919 from Rasipuram to Salem at Salem National Highways near Nilavarapatti Bus stop on 07.12.2013 at about 9.00 p.m. On the said direction, the deceased was riding his two wheeler bearing registration No.TN 27 Q 9865 TVS Excel Super in the left hand side of the road. In front of his two wheeler, Government bus bearing registration No.TN 27 N 1585 was driven by its driver. While being so, the petitioner had driven his lorry in a rash and negligent manner and hit the two wheeler. Thereafter, he also hit the bus which was going in front of his vehicle, due to which the deceased fell down and sustained head injury. He died on the spot. The bus also got damaged.



Crl.RC.No.455 of 2018

8. The wife of the deceased was examined as PW1. She heard the news about the accident and lodged complaint which was marked as Ex.P1.

One of the eye witnesses was examined as PW2, who deposed that the petitioner had driven his lorry in a rash and negligent manner and dashed against the two wheeler, due to which he sustained injury and died on the spot. The driver of the bus was examined as PW3, who deposed that when he was proceeding to Rasipuram from Salem near Nilavarapatti Bus stop, the petitioner had driven his lorry in a rash and negligent manner and hit the two wheeler which was driven by the deceased. Thereafter the lorry also hit his bus. Due to the said accident, the deceased fell down and sustained head injury. He died on the spot.

9. The Motor Vehicle Inspector was examined as PW7. On perusal of his evidence, revealed that the rear side of the bus was damaged, the two wheeler which was driven by the deceased got fully damaged. On inspection of the petitioner's vehicle, it was found that the entire left hand side of the lorry got damaged. He further deposed that the accident did not take place due to any mechanical fault. Hence, the prosecution categorically



Crl.RC.No.455 of 2018

proved its case and this Court finds no merits to set aside the conviction.

However, the learned counsel for the petitioner would submit that the sentence may be reduced considering the age of the petitioner. Considering the same, this Court is inclined to reduce the sentence imposed on the petitioner for the offence under Section 304(A) of IPC. As such, the judgment passed Crl.A.No.89 of 2017 dated 24.01.2018 on the file of the III Additional Sessions Court, Salem confirming the judgment passed in CC.No.2 of 2014 dated 06.07.2017 on the file of the learned Judicial Magistrate-IV, Salem is modified as follows:

- (i) (a)The conviction and sentence imposed for the offences under Section 279 of IPC is confirmed.
(b)The conviction rendered for the offences under Section 304(A) of IPC is confirmed.
- (ii) The sentence of imprisonment imposed for the offence under Section 304(A) of IPC is reduced from two years rigorous imprisonment to one year rigorous imprisonment.
- (iii) The fine imposed by the courts below is hereby confirmed and the sentences are ordered to run concurrently.



Crl.RC.No.455 of 2018

10. Accordingly, this criminal revision is partly allowed and the trial court is directed to secure the accused and send him to prison to undergo the remaining period of sentence.

22.11.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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Crl.RC.No.455 of 2018



WEB COPY



Crl.RC.No.455 of 2018

G.K.ILANTHIRAIYAN. J,

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To

- 1.The III Additional Sessions Judge,
Salem
- 2.The learned Judicial Magistrate No.VI,
Salem.
- 3.Inspector of Police,
Mallur Police Station,
Salem District
- 4.The Public Prosecutor,
High Court of Madras

Crl.RC.No.455 of 2018

22.11.2022