



Crl.R.C.No.57 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

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

Crl.R.C.No.57 of 2018

Karthikeyan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Mogudamchaveadi Police Station,
Salem District.
(Crime No.820 of 2010)

... Respondent

PRAYER: Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C to set-aside the judgment passed in C.C.No.132 of 2011 dated 27.03.2017 on the file of Judicial Magistrate Court-I, Sangagiri confirmed in C.A.No.43 of 2017 on 30.10.2017 on the file of III-Additional Sessions Court, Salem.

For Petitioner	:	Mr.T.Muruganantham
For Respondent	:	Mr.A.Gopinath Government Advocate (Crl. Side)



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ORDER

This Criminal Revision case has been filed to set-aside the conviction judgment passed in C.C.No.132 of 2011 dated 27.03.2017 on the file of Judicial Magistrate Court-I, Sangagiri confirmed in C.A.No.43 of 2017 on 30.10.2017 on the file of III-Additional Sessions Court, Salem.

2. The case of the prosecution is that the accused is the Driver of auto rickshaw bearing Registration No. TN 30 L 8777. On 08.11.2010 at about 11.40 a.m., the auto rickshaw driven by the accused in a rash and negligent manner, dashed against the deceased and another injured person who were laying the road. One person died due to the injury sustained by him, due the accident committed by the accused and another one sustained grievous injuries. On receipt of the complaint, the respondent registered an FIR in Crime No.820 of 2010, for the offences punishable under Sections 279, 337 and 304A of IPC.



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3. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court. The prosecution had examined P.W.1 to P.W.17 and marked Exs.P.1 to P.11. On the side of the petitioner, no one was examined and no exhibit was marked. On perusal and oral and documentary evidence, the Trial Court found the petitioner guilty and convicted the petitioner. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed, confirming the order passed by the Trial Court.

4. The learned counsel for the petitioner would submit that none of the witness examined by the prosecution identified the petitioner, as if he only had driven the auto rickshaw. Further, no one deposed that the petitioner had driven the vehicle in a rash and negligent manner. The P.W.1 deposed that he had lodged a complaint in the Government Hospital, Sankagiri, whereas the Head Constable received the complaint in Gokulam Hospital. Therefore, the prosecution failed to prove the case beyond any doubt. He further submitted that the distance between the laying of road and the auto rickshaw is nearly 20 feet. Therefore, there is



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absolutely no chance for the petitioner's vehicle for committing the accident.

5. A perusal of records shows that P.W.1, who is one of the injured, deposed that on 08.11.2010 P.W.1 and others, along with the deceased, were engaged in the road laying work, on the left hand side of the road, near Sanniyasipatti rice mill. While being so, the deceased was supervising the road work, the petitioner herein had driven the auto rickshaw bearing Registration No. TN 30 L 8777 in a rash and negligent manner and dashed against the deceased and P.W.1. The deceased sustained head injury and P.W.1 sustained fracture on his left shoulder and also injury on his legs. Immediately, they were taken to Government Hospital, Sankagiri. However, they declined to treat them, since the injuries are very serious in nature. Therefore, immediately, they were taken to Salem Vinayaga hospital. There also they declined to treat them and again they were taken to Gokulam Hospital, Salem for treatment. However, again they were taken to SKS Hospital for treatment. When P.W.1 was taking treatment at Gokulam Hospital, the statement was



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recorded by the Police officials and FIR was registered. The statement was marked as Ex.P.1. Another eye witness was examined as P.W.3. He also reiterated the same as that of P.W.1. Though, they were cross examined by the defence counsel, nothing elicited from them to disprove the case of the prosecution. P.W.4 is also one of the eye witnesses and he was examined by the prosecution and he also reiterated the evidence of P.W.1 and P.W.3. The Motor Vehicle Inspector was examined as P.W.13 and he categorically deposed that the accident had not taken place on any mechanical fault of the vehicle. The said certificate was marked as Ex.P5. The Doctor who treated P.W.1 was examined as P.W.14 and he also endorsed the injuries sustained by P.W.1. Therefore, the prosecution proved the case beyond any doubt and the Trial Court rightly convicted the petitioner and the same was confirmed by the Appellate Court.

6. However, the learned counsel for the petitioner would submit that the petitioner is the auto rickshaw driver and he is only the bread winner of his family. Therefore, the sentence may be reduced to some extent.



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7. Considering the above submission, the conviction as against the petitioner for the offences under Sections 279, 337 and 304A of IPC is confirmed. Insofar as the sentence imposed for the offence under Section 304A of IPC is concerned, it is reduced from six months to four months. Except the said modification, in respect of sentence for the offence under Section 304A of IPC, the Judgments of the Court below are confirmed.

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

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order
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To

1. The III-Additional Sessions Court, Salem.
2. The Judicial Magistrate Court-I, Sangagiri.



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G.K.ILANTHIRAIYAN, J

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