



Crl.R.C.No.423 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.423 of 2019

Pirasanna

...Petitioner

-Vs-

State represented by
The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.
Crime No.140 of 2011

...Respondent

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. against the judgment dated 04.04.2019 made in C.A.No.133 of 2018 passed by the learned II Additional District and Sessions Judge, Chidhambaram by confirming the conviction and sentence imposed by judgment dated 29.11.2018 made in C.C.No.163 of 2013 passed by the learned Judicial Magistrate No.II, Chidhambaram.

For Petitioner : Mr.P.Palanithan for



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M/s.B.B.Sendilkumar

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor.

ORDER

The criminal revision has been filed against the concurrent judgment of conviction dated 04.04.2019 made in C.A.No.133 of 2018 passed by the learned II Additional District and Sessions Judge, Chidhambaram, confirming the conviction and sentence imposed by judgment dated 29.11.2018 made in C.C.No.163 of 2013 passed by the learned Judicial Magistrate No.II, Chidhambaram.

2 Case of the prosecution is that on 20.05.2011 at about 17.00 hours., the revision petitioner was driving the Mahindra Van bearing Reg.No.TN 23 F1485 proceeding towards Chidambaram from Kumaratchi on Chidhambaram road near the Mile Stone 124/2 in a rash and negligent manner without blustering horn dashed on the rear right side door on the Ambassador Car bearing Reg.No.TN 69 A 4001 on the opposite side, which was proceeding from Chidhambaram to Vellure towards Kumaratchi in



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Chidambaram road, which caused grievous injuries to one Banumathi, who traveled in the rear side of the Car and on the way to Hospital, she succumbed to death and the passengers in the Van also sustained injuries. Therefore a case was registered against the petitioner, driver of the Van for the offence under Section 279, 337(12 counts), 338 (3 counts) and 304-A (2 counts) of IPC and after investigation charge sheet was also laid, which was taken on file in C.C.No.163 of 2013.

3 The learned Judicial Magistrate No.II, Chidambaram, after trial, found the accused guilty for the offence under Section 279 and 304-A of IPC alone and convicted and sentenced him to undergo rigorous imprisonment for a period of six months for the offence under Section 279 IPC, to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2000/-, in default, to undergo simple imprisonment for a further period of one month for the offence under Section 304(A). Aggrieved over the conviction and sentence, the petitioner preferred an appeal in C.A.No.133 of 2018 and the learned II Additional District and Sessions Judge, Chidambaram, after hearing both the parties, by judgment dated



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04.04.2019, confirmed the conviction and sentence passed by the trial Court, against which, the petitioner is before this Court with the present criminal revision case.

4 The learned counsel appearing for the petitioner would submit that the accident had not taken place due to rash and negligent driving of the petitioner herein. The witnesses have not spoken that the accident had taken place only due to rash and negligent driving of the petitioner alone. The passengers i.e. P.Ws.6, 7, 10, 11 and 13 to 20 have categorically stated that only in order to avoid the accident, the driver of the Van turned the vehicle and the place is also very narrow and hence the accident had occurred. Except the wife of the defacto complainant, who is aged about 59 years at the time of accident, no one died and some persons sustained injuries. Absolutely there is no evidence to show that the accident had occurred only due to rash and negligence driving of the petitioner alone. Both the Courts below have failed to appreciate the evidence in a proper manner and wrongly convicted the petitioner, which warrants interference.



5 The learned Additional Public Prosecutor appearing for the

respondent police would submit that the accident was due to negligence of the petitioner only, who had driven the van in rash and negligent manner and even without any horn turned the vehicle and dashed against the Car, in which the deceased traveled. P.Ws.1 to 4 are eye witnesses, P.W.5, the Doctor, who conducted autopsy on the body of the deceased had opined that the death was caused due to the injuries sustained by the deceased. The trial Court has convicted the petitioner and the lower appellate Court had also confirmed the conviction and sentence and hence there is no reason to interfere with the judgment of conviction.

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

7 P.W.1 is the husband of the deceased and he has clearly spoken about the accident. P.Ws.2 to 4 are the persons, who had traveled in the Car, at the time of accident, had also categorically deposed during chief



examination that the accident had occurred due to the negligence of the petitioner only. After four years, they were recalled and cross examined by the defence counsel. Obviously, after four years, they could not give the same statement as given during chief examination. The petitioner/accused has not assigned any reason as to why the witnesses have not been cross examined immediately soon after the chief examination.

8 It is settled proposition of law that while exercising revisional jurisdiction, this Court has to see whether there is any perversity in appreciation of evidence while deciding the case by the Courts below.

9 On reading of the evidence of P.Ws.1 to 4, this Court finds that there is no perversity in appreciation of evidence by both the Courts below in deciding the case and convicting the petitioner. However, considering the fact that this is only an accident, which is not intentional one, this Court is inclined to modify the period of sentence alone.



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WEB COPY 10 Accordingly judgment dated 04.04.2019 made in C.A.No.133 of 2018 passed by the learned II Additional District and Sessions Judge, Chidhambaram by confirming the conviction and sentence imposed by judgment dated 29.11.2018 made in C.C.No.163 of 2013 passed by the learned Judicial Magistrate No.II, Chidhambaram, is hereby confirmed and period of imprisonment alone modified from 1 year to six months for the offence under Section 304(A) of IPC alone.

11 This criminal revision is disposed of to the above extent. Trial Court is directed to secure the petitioner to undergo remaining period of sentence, if any.

19.09.2022

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

1. The II Additional District and Sessions Judge, Chidhambaram.
2. The Judicial Magistrate No.II, Chidhambaram.

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P.VELMURUGAN, J.,
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