



Crl.R.C.No.303 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2022

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.303 of 2017

Kannadasan

... Petitioner

Vs.

Station House Officer,
Puduchathiram Police Station,
Cuddalore.
(Crime No.155/2012)

... Respondent

Prayer: Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C., to set aside the judgment passed by the II Additional District and Sessions Judge, Chidambaram in C.A.No.96 of 2015 dated 22.11.2016 confirming the judgment made by the District Munsif cum Judicial Magistrate, Parangipettai in C.C.No.12 of 2013 on 22.09.2015.

For Petitioner : Ms. A. Veeramamarthini

For Respondent : Mr. L.Baskaran,
Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Case is filed against the judgment passed in C.A.No.96 of 2015 by the II Additional District and Sessions Judge, Chidambaram dated 22.11.2016 confirming the judgment made in C.C.No.12 of 2013 by the District Munsif cum Judicial Magistrate, Parangipettai dated 22.09.2015.

2. The petitioner is the accused in C.C.No.12 of 2013 on the file of District Munsif cum Judicial Magistrate, Parangipettai vide judgment dated 22.09.2015, the trial Court sentenced him to undergo six months rigorous imprisonment for offence under Section 304(A) IPC and fine of Rs.2,000/-, in default to pay the fine, one month simple imprisonment. No separate sentence was passed for the offence under Section 279 IPC.

3. Aggrieved against the judgment of conviction and sentence, the petitioner preferred an appeal before the II Additional District and Sessions Judge, Chidambaram in C.A.No.96 of 2015 and the same was dismissed by



confirming the conviction and sentence of the trial Court. Hence, the present revision petition has been filed.

4. The gist of the prosecution case is that

on 11.03.2012, at about 15.00 hours, P.W.1 (Prakash) was the pillion rider in Hero Honda Motor Cycle bearing Registration No.TN-31-H-2133 which was driven by Mannangatti, father of P.W.1. While they were returning after attending a function in the two wheeler from Chidambaram to Cuddalore at about 3.00 pm near Silambimangalam, at that time, a two wheeler driven by the accused which was coming from East to West, cut across the road and dashed their bike. Due to which Mannangatti (deceased) sustained head injuries, who was taken to Government Hospital, where he was declared dead.

4.1. Thereafter, P.W.1 lodged a complaint to P.W.8, who registered the FIR, Ex.P7 in Crime No.155 of 2012 for the offences under Sections 279, 337 and 304 IPC. P.W.9 took up investigation, visited the scene of occurrence, prepared observation mahazar-Ex.P4 in presence of P.W.4 and P.W.6. P.W.2 and P.W.3 who are the eye witnesses to the occurrence, their



statements were recorded. After, inquest, the body was sent for post-mortem. P.W.5 is the post-mortem doctor who conducted post-mortem and issued certificate Ex.P3. The vehicle driven by the accused as well as the deceased were produced before the P.W.7, Motor Vehicle Inspector who inspected the vehicle, issued certificate Exs.P5 and P6. Thereafter, P.W.9 on completion of investigation filed a charge sheet.

4.2. Before the trial Court, P.W.1 to P.W.10 were examined and Exs.P1 to P9 were marked. Neither any witness nor any document were examined or marked by the defence. On conclusion of the trial, the trial Court convicted the petitioner. Against which, the petitioner had filed an appeal before the Sessions Court, the same was dismissed by confirming the conviction and sentence of the trial Court as stated above.

5. The contention of the petitioner is that in this case, P.W.1 who travelled along with the deceased also sustained injuries is not an eye witness. He was not treated by any Doctor for the injuries sustained. Further, P.W.1 does not identified the accused. The deceased who was driving the bike, by his own act, had hit the name board of the Village,



sustained injuries and fell down, which is projected as an accident caused by the petitioner, who was residing in the nearby area, for the purpose of insurance. P.W.2 and P.W.3 who are the other eye witnesses projected, said to have followed the deceased by 100 meters behind, all relatives who attended the function, no independent witnesses examined and these two witnesses does not identified the accused. In the scene of occurrence, there are two bus stands, on either side, no public there examined. There is a delay of 5 months for production of the vehicle and no reason given for the delay. In this case, P.W.2 not supported the case of the prosecution who was treated hostile. P.W.4 admits that his signature was obtained in the observation mahazar and rough sketch in the Police Station who was also declared hostile. From the evidence of the prosecution, none of the witnesses have identified the accused as the rider of the vehicle and reason for the accident which, vital fact not properly considered by both the trial Court as well as lower appellate Court. Hence, prayed for acquittal.

6. Learned Government Advocate (Crl.Side) appearing for the State would submit that in this case, P.W.1 is a eye witness, pillion rider



who was sitting along with his father, at the time of the accident. P.W.1 and his father, who was proceeding from Chidambaram to Cuddalore, while they were nearing Silambimangalam at that time, the accused who was riding TVS Suzuki bike in a rash and negligent manner, cut across the main road, dashed against the vehicle. Due to which, the deceased fell down and sustained head injuries. P.W.1 also sustained injuries. Thereafter, the deceased succumbed to injuries in a short while. P.W.1 lodged the complaint. On P.W.1 complaint, P.W.8 registered the FIR. Thereafter, P.W.9 took up investigation, visited the scene of occurrence. P.W.2 and P.W.3 are the other eye witnesses who state about the accident. P.W.4 and P.W.6 are the witnesses for observation mahazar and rough sketch. P.W.5 the post-mortem doctor who confirms the death due to accident. P.W.7 the Motor Vehicle Inspector and P.W.10 the constable. On conclusion of investigation, charge sheet filed before the trial Court. The trial Court, on the evidence and materials produced, rightly convicted the petitioner. The lower appellate Court confirmed the conviction. Hence, prayed for dismissal of this petition.



7. Considering the submissions and on perusal of the materials, it

is seen that the P.W.1 projected as a pillion rider along with his father who also sustained injuries but no medical evidence produced to show that P.W.1 also sustained injuries during the accident. P.W.2 and P.W.3 are the other two eye witnesses projected. P.W.2 treated hostile. Other witnesses, P.W.1 and P.W.3 the projected eye witnesses, not identify the accused to be the rider of TVS Suzuki vehicle, who caused the accident. Though, it was projected that the petitioner was in a drunken state, no medical test conducted to prove the same. Further, the trial Court as well as the lower appellate Court failed to consider that none of the witness identified the accused being the rider and the reason for the cause of accident. There is considerable delay in forwarding the statements and documents to the Court. Thus, this Court finds that the prosecution failed to prove the case beyond all reasonable doubt against the petitioner. Giving benefit of doubt to the petitioner/accused is acquitted from the charges.

8. Accordingly, the Criminal Revision Case is allowed. The conviction and sentence passed in C.C.No.12 of 2013 dated 22.09.2015 by



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the District Munsif cum Judicial Magistrate, Parangipettai, confirming judgment dated 22.11.2016 in C.A.No.96 of 2015 by the II Additional District and Sessions Judge, Chidambaram are hereby set aside. In fine, the petitioner is acquitted from all charges.

9. This Court records its appreciation to Ms.A.Veeramarthini, learned counsel appeared on behalf of the petitioner, who was appointed by the legal aid to represent the petitioner for her able assistance to the Court.

15.12.2022

AT

Index : Yes/No

Speaking / Non-speaking

To

1.The II Additional District and Sessions Judge,
Chidambaram.

2.The District Munsif cum Judicial Magistrate,
Parangipettai.

3.The Station House Officer,
Puduchathiram Police Station, Cuddalore.

4.The Public Prosecutor,
High Court of Madras.

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M.NIRMAL KUMAR,J.

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