



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

Crl.R.C.No.320 of 2017

Venkatesan

... Petitioner/Accused

Vs.

State rep by  
The Inspector of Police,  
Traffic Investigation Unit,  
J-3, Guindy Police Station,  
Chennai.

...Respondent/Complainant

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code, against the conviction and sentence passed by the learned IV Additional Sessions Judge, City Civil Court, Chennai by her judgment dated 15.11.2016 and made in C.A.No.132 of 2014 convicting the petitioner under Section 304-A of IPC to undergo 1 year Simple Imprisonment and pay a fine of Rs.5,000/- or Simple Imprisonment for one month and no punishment was imposed for Section 71 of IPC and for Section 184 of Motor Vehicles Act. Confirming the judgment of conviction and sentence passed by the learned IV Metropolitan Magistrate, Saidapet, Chennai-15 by his judgment dated 05.02.2014 made in C.C.No.171 of 2009.

For Petitioner : Mr.S.Gunaseelan

For Respondent : Mr.A.Gopinath  
Government Advocate (Crl.side)

ORDER

This Criminal Revision Case has been preferred challenging the judgment of the IV Additional Sessions Judge, Chennai, dated 15.11.2016 made in C.A.No.132 of 2014, which confirmed the order of the learned IV Metropolitan Magistrate, Saidapet, Chennai, dated 05.02.2014 made in C.C.No.171 of 2009.

2. The revision petitioner is the accused before the trial Court. The case of the prosecution is that on 25.05.2008, at about 8.15 a.m., when the defacto complainant/PW.1 was riding his motorcycle, along with PW.2 as a pillion rider, on Virugambakkam to Arcot Road from east to west, another two wheeler bearing registration No.TN 09 AW 0741 ridden by the



deceased Allauddin was also proceeding on the same road; when they came near CSI church, the Corporation bus, which was coming behind them, hit against the vehicle ridden by the deceased and due to which, the deceased fell down from the vehicle and sustained injuries on his head. The back wheel of the bus ran over the head of the deceased. In view of that he died on the spot. Hence the accused stood charged for the offences under Sections 304(A) IPC and 184 of Motor Vehicles Act.

3. On the complaint given by PW.1-Abdul Rahim, a case was registered by PW.5-Durairaj/ Sub Inspector of Police in Crime No.271/S1/2008 of Traffic Investigation Unit, J-3, Guindy Police Station, and the FIR was prepared as Ex.P.2. PW.6-Elango was the Inspector of Police at the time of occurrence. Since he went on leave, one Dhanavel, Inspector of Police, who held the additional charge, had taken up the case and seized the vehicle involved in the accident and sent the vehicle for inspection and got the Motor Vehicle Inspector's report Exs.P3 and P4. The accused was released on bail on the same day when the FIR was registered. Dhanavel/PW.5 went to the place of occurrence, inspected the spot and prepared the Observation Mahazar and rough sketch. He also examined some of the witnesses and recorded their statement and he conducted the inquest on the body of the deceased in the presence of the witnesses and prepared inquest report [Ex.P.11]; thereafter, the body of the deceased was sent for post-mortem. PW.6/Inspector of Police enquired the doctor who have conducted post-mortem and got post-mortem certificate. After completion of investigation, he filed the charge sheet for the offences under Sections 304(A) IPC and 184 of the Motor Vehicles Act.

4. After the case was taken on file and on being satisfied with the materials produced before the Court, the learned trial Judge questioned the accused for the offences under Sections 304 (A) IPC and 184 of the Motor Vehicles Act. Since the accused pleaded innocence and claimed to be tried, trial was conducted.

5. On the side of the prosecution, eight (8) witnesses were examined as PW.1 to PW.8 and twelve (12) documents were marked as Ex.P.1 to Ex.P.12. When the incriminating evidence found in the evidence of the prosecution was put to the accused and questioned under Section 313 Cr.P.C., he denied the same. On the side of the accused, no witness was examined and no document has been marked.

6. After the conclusion of the trial and on consideration of the materials available on record, the learned trial Judge found the accused guilty and convicted and



sentenced vide impugned judgment dated 05.02.2014, made in C.C.No.171 of 2009, as follows:-

| Rank of the accused | Charges       | Findings of the trial Court | Punishment                                                                                                                                            |
|---------------------|---------------|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sole accused        | U/s.304-A IPC | Found guilty                | Convicted and sentenced to undergo one year Simple Imprisonment and to pay a fine of Rs.5,000/-; in default to undergo one month Simple Imprisonment. |
|                     | 184 M.V.Act   | Found guilty                | No separate fine amount was imposed in view of Section 71 IPC                                                                                         |

7. Against the said conviction and sentence, the petitioner / accused had preferred an appeal in C.A.No.132 of 2014 on the file of the learned IV Additional Sessions Judge, Chennai, which was dismissed by confirming the judgment of the trial Court. Aggrieved over the decision of the Appellate Court, this Criminal Revision Case has been filed by the petitioner / accused.

8. Heard the learned counsel for the petitioner/accused and the learned Government Advocate (Crl.Side) for the State.

9. The learned counsel for the revision petitioner submitted that the evidence the eye witnesses is not reliable for the reason that it has lot of contradictions; the eye witnesses have stated a different version of the stories about the manner in which the occurrence had taken place; the road on which the accident had taken place was not a proper road and that could have also contributed to the accident; the learned trial Judge and the appellate Judge omitted to appreciate the evidence in a proper perspective and hence the revision petition has to be allowed.

10. The learned Government Advocate(Crl.side) for the respondent submitted that the two wheeler ridden by the deceased was going in front of the Government transport bus and the accident had occurred only due to the negligence of the bus driver; the eye witnesses have also stated about the accident in a clear manner; the contradictions pointed out by the learned counsel for the petitioner are not material contradictions which could defeat the case of the prosecution; the Motor Vehicle Inspector has also given a certificate stating that there is no



11. Points for consideration:

15. Though there are some minor contradictions in the evidence of eye witnesses as pointed out by the learned counsel for the revision petitioner it does not shake the case of the



prosecution. Since the deceased who was riding the two wheeler was going on the left side of the road and another two wheeler ridden by PW.1 was also following, the bus driver ought to have come in a careful manner so as to avoid going on the extreme left side of the road. Since the driver, being the Corporation bus driver, should have known the condition of the road as he was taking usual trip. It is not the defence of the petitioner that on the day of accident the bus involved in the accident was not driven by him. The learned trial Judge and appellate Judge have appreciated the evidence in a proper perspective and arrived at a correct conclusion that the negligence was on the part of the bus driver only. Had the bus driver exercised due caution, he could have avoided the accident by keeping safe distance and also not descending much on the extreme left side of the road. Since the Courts below have rightly held the accused guilty for the offences by properly appreciating the evidence, I do not find any reason for interference.

16. However the learned counsel for the petitioner submitted that the accident was unfortunate in the career of the petitioner as the driver of the Corporation and he has not involved in any other accident either before or any time subsequent to this occurrence. By stating so, he requested some indulgence of this Court to reduce the punishment. The learned Government Advocate (CrI.side) has also stated that there is no previous case against the accused.

17. Considering the above submissions of the learned counsel for the petitioner, I feel that some leniency could be shown in the matter of punishment. Accordingly, the sentence of one year Simple Imprisonment is reduced to 3 months Simple Imprisonment.

In the result, this Criminal Revision Case is partly allowed and the judgment of the appellate Court made in C.A.No.132 of 2014, dated 15.11.2016 is modified that the accused found guilty for the offence under Section 304(A) IPC and he is convicted and sentenced to undergo 3 months Simple Imprisonment and imposed with a fine of Rs.5,000/-, in default to undergo one month S.I.. The fine amount paid already may be retained. The period of incarceration undergone by the accused can be set off under Section 428 Cr.P.C. The trial Court is directed to secure NBW to secure the petitioner/accused and commit him to prison to undergo the remaining period of sentence.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



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To

1.The IV Additional Sessions Judge, City Civil Court, Chennai .

2.The IV Metropolitan Magistrate, Saidapet, Chennai-15.

3.The Inspector of Police,  
Traffic Investigation Unit,  
J-3, Guindy Police Station,  
Chennai.

4.The Public Prosecutor,  
High Court, Madras.

+1cc to M/s.S.Gunaseelan, Advocate, S.R.No.6706

Cr1.R.C.No.320 of 2017

PMK(CO)  
SB(02/03/2022)