



CRL.R.C.No.1086 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM

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

Crl.R.C.No.1086 of 2018

and Crl.M.P.No.12656 of 2018

K.Karnan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Koradacheri Police Station,
Thiruvarur District.
(Crime No.183 of 2015)

... Respondent

Prayer: Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C to set aside the judgment passed in C.A.No.34 of 2017 dated 28.02.2018 on the file of the Principal District and Sessions Judge, Thiruvarur, thereby confirming the judgment passed in C.C.No.319 of 2015 dated 06.09.2017 on the file of the Judicial Magistrate, Thiruvarur.

For Petitioner : Mr.G.Saravanan

For Respondent : Mr.A.Gopinath

Government Advocate (Crl. Side)



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ORDER

This Criminal Revision case has been filed as against the judgment passed in C.A.No.34 of 2017 dated 28.02.2018 on the file of the Principal District and Sessions Judge, Thiruvarur, thereby confirming the judgment passed in C.C.No.319 of 2015 dated 06.09.2017 on the file of the Judicial Magistrate, Thiruvarur.

2.The case of the prosecution is that on 25.05.2015 at about 13.00 hrs near Mukanthanur Panchayat Board Bus Stop and opposite to New Pazhani Auto Works Shop at Thiruvarur-Thanjavur Main Road, when the defacto complainant proceeding in her motor cycle bearing Reg.No.TN-50-M-9429 along with her sister's son, who was standing in the front and deceased, her father was travelling as pillion rider from East to West on the left side of the road, the accused drove his bus in a rash and negligent manner and dashed against their two wheeler. Due to which, all the three persons fell down and the pillion rider namely the father of the defacto complainant sustained grievous injury and on the way to hospital, he died and the complainant and the said child who was sitting in the front of the vehicle sustained injuries. Hence the complaint.

3.On receipt of said complaint, the respondent registered FIR in



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Crime No.183 of 2015 for the offence under Section 304(A) IPC. After completion of investigation the respondent filed final report and the same has been taken cognizance by the trial Court in C.C.No.319 of 2015 for the offence under Section 304(A) IPC.

4.In order to bring home the charges, the prosecution had examined PW1 to 10 and marked Exs.P1 to 9 and on the side of the petitioner no one was examined and no document was marked.

5.On perusal of oral and documentary evidence the trial Court found the petitioner guilty for the offence under Section 304(A) IPC and sentenced him to undergo two years simple imprisonment and also imposed fine of Rs.5,000/- in default to undergo one month simple imprisonment. Aggrieved by the same the petitioner preferred an appeal and the same was dismissed confirming the judgment passed by the trial Court. Hence the revision.

6.The learned counsel for the petitioner would submit that the person who drove the two wheeler was examined as PW1. Admittedly, she did not possess any license to drive the vehicle. Further, totally there were three persons who travelled in a two wheeler therefore, she lost her



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control and suddenly came to middle of the road. Therefore, the accident occurred and it was not due to the rash and negligent driving of the petitioner herein and it happened only due to the negligent driving of PW1. The entire conviction is based on the evidence of PW4, who happened to be the eye witness to the occurrence. Even according to the case of the prosecution he was sitting in the opposite side of the road in a work shop and he deposed that only because of the rash and negligent driving of the petitioner, the accident took place. He never said that the petitioner drove the vehicle in a rash and negligent manner. He deposed only the petitioner drove the vehicle in a speedy manner.

7. Admittedly, the accident has taken place at Mukanthanur Panchayat Board Bus Stop and as such, there is no necessity for the petitioner to drive the vehicle in a speedy manner. He was driving the Government bus and there was absolutely no possibility to drive it in a speedy manner, especially, though the motor vehicles inspection reports were marked through the Investigating Officer the Motor Inspector, conducted motor vehicle inspection, was not examined by the prosecution. Therefore, it is fatal to the case of the prosecution. Even



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without considering the above facts and circumstances, both the Courts below wrongly convicted the petitioner for the offence under Section 304(A) IPC.

8.He further submitted that the Investigating Officer categorically admitted that the road expansion work was carried out in the place of accident and due to which PW1 drove her two wheeler in the middle of the road, without noticing the bus coming behind her. Therefore, the accident was took place only on the rash and negligent driving of PW1.

9.Per contra, the learned Government Advocate submitted that though PW1 did not possess any license, it does not mean that she drove the vehicle wrongly and only due to her driving, the accident had taken place. PW4, who was the eye witness to the occurrence, categorically deposed that only because of the rash driving of the bus driven by the petitioner the accident taken place. PW2, was sitting in front of the two wheeler who was aged about only 9 years at the time of accident. Her father was sitting as a pillion rider. The accident had taken place in the left side of the road and due to which the deceased fell down and



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sustained grievous injuries. When he was taken to hospital he was declared brought dead. Therefore, the prosecution categorically proved its case and the Courts below rightly convicted the petitioner for the offence under Section 304A IPC.

10.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent and perused the materials available on record.

11.It is seen that on 25.05.2015 at about 13.00 hrs, when PW1 was driving her two wheeler along with her sister's son aged about 9 years and her father as a pillion rider towards East to West near Mukanthanur Panchayat Board Bus Stop and opposite to New Pazhani Auto works shop at Thiruvavur-Thanjavur Main Road, the petitioner had driven his bus in a rash and negligent manner on the same direction and dashed against her two wheeler due to which all the three persons who travelled in a bike fell down and sustained injuries. The pillion rider of the two wheeler had sustained grievous injuries and he succumbed injuries. The rider of the two wheeler was examined as PW1, she categorically



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deposed that she had driven the two wheeler in a slow speed on the left side of the road. While being so, without noticing the two wheeler, the petitioner had driven the bus in a rash and negligent manner and dashed against the two wheeler due to which they fell down and sustained grievous injuries and her father died. It is also corroborated by PW2. PW4, who is the independent witness, had deposed that when he was sitting opposite to the place of accident in a work shop, he noticed the accident and he categorically deposed that the petitioner had driven the bus in a rash and negligent manner and hit behind the two wheeler which was driven by PW1. Therefore, it is clear that only due to the rash and negligent driving of the petitioner, the accident had taken place and due to which one person died.

12. Admittedly, PW1 did not possess any license to drive two wheeler. Further, three persons travelled in a two wheeler. However, it does not mean that PW1 drove the two wheeler in a rash and negligent manner and due to which the said accident had taken place. If at all PW1 had driven the vehicle without license, she is liable to be punished under



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Section 3 r/w 181 of Motor Vehicles Act.

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13. Admittedly, when PW1 was riding her two wheeler the petitioner drove the bus in rash and negligent manner and hit the two wheeler behind her back. Therefore, absolutely there is no possibility for PW1 to drive her vehicle in a rash and negligent manner to cause the accident. In so far as, the motor vehicle reports are concerned, which were marked through Investigating Officer as Exs.P7 and 8.

14. On perusal of evidence of Exs.P7 and 8 it revealed that the steps of the bus hit the two wheeler due to which all the persons fell down from the two wheeler. It is also corroborated by the evidence of PW4 who was an eye witness to the occurrence. He deposed that immediately the petitioner turned the bus all of a sudden the petitioner turn the bus right side and came to left side. Thus, it is clear that the petitioner failed to notice the two wheeler which was going in front of his bus. Therefore, after noticing the two wheeler suddenly he turned the bus to right side and the steps of the bus hit the two wheeler due to which the accident had occurred. Therefore, the Court below rightly convicted the petitioner for



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the offence under Section 304A IPC and this Court finds no infirmity or illegality in the judgment passed by the Court below.

15. Accordingly, the criminal revision case stands dismissed. However, the learned counsel for the petitioner prays to reduce the sentence since he was sentenced to undergo two years imprisonment.

16. Considering the above facts and circumstances and also the submission made by the learned counsel for the petitioner, this Court is inclined to reduce the sentence imposed by the Court below. Accordingly, the sentence imposed on the petitioner is hereby reduced from two years to one year and the respondent is directed to secure the petitioner to undergo remaining period of sentence. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-Speaking order
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To
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1. The Principal District and Sessions Judge,
Thiruvavarur.
2. The Judicial Magistrate,
Thiruvavarur.

G.K.ILANTHIRAIYAN, J

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