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Crl.R.C.No.1104 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

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

Crl.R.C.No.1104 of 2018
and Crl.M.P.No.12961 of 2018

R.Manikandan

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Keelapalur Police Station,
Ariyalur District.
(Crime No.29 of 2016)

... Respondent

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to call for the records in C.A.No.25 of 2017 dated 16.08.2018 passed by the Additional District and Sessions Court, Ariyalur, by confirming the judgment in C.C.No.66 of 2016 dated 08.11.2017 on the file of the Chief Judicial Magistrate, Ariyalur, and set aside the judgment and conviction.

For Petitioner : Mr.P.Tamilavel

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



ORDER

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This Criminal Revision case has been filed to set aside the order passed by the Additional District and Sessions Court, Ariyalur, in C.A.No.25 of 2017 dated 16.08.2018 thereby confirming the judgment passed by the Chief Judicial Magistrate, Ariyalur, in C.C.No.66 of 2016 dated 08.11.2017.

2. The case of the prosecution is that on 05.02.2016 at about 17.00 hours, when the deceased was walking on the left side of Maravanur Road, Keelaiyur Village, from North to South direction to buy grocery things. The accused drove the Tractor bearing No. TN-46-F-8326, attached with Trailer No.1 bearing Registration NO.TN-46-D-4674 and Trailer No.2 bearing Registration No. TN-46-E-6658 loaded with Sugarcane in a rash and negligent manner and hit against the deceased, who fell down. Subsequently, the second Trailer ran over his head, left hand and left leg due to which, he sustained grievous injuries and died on the spot. Hence the complaint.

3. Thereafter, the respondent registered FIR in Crime No.29 of 2016 for the offence under Sections 279 and 304A IPC and after completion of investigation, the respondent filed final report and the same has been taken cognizance by the trial Court for the offence under Sections 279 and 304A IPC.



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4. On the side of the prosecution, he examined PWs1 to 11 and marked Exs.P1 to 7 as Exhibits 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 Sections 279 and 304A IPC and sentenced him to pay Rs.1000/- for the offence under Section 279 IPC in default of payment of fine to undergo one month simple imprisonment; and to undergo two years simple imprisonment under Section 304A IPC. Aggrieved by the same, the petitioner preferred an appeal, the same was dismissed and confirmed the judgment passed by the trial Court. Hence this revision.

6. The learned counsel for the petitioner would submit that PWs2 and 4 as eye witnesses, who are very close relatives of the deceased and his father was examined as PW1 he stated in the evidence that the deceased, while climbing in the trailer of the tractor which was loaded with sugarcane, to get a piece of sugarcane, fell down and sustained injuries. No independent witness was examined by the prosecution. In fact, in the rough sketch, in and around the



place of accident there were houses however, no one was examined by the prosecution.

7. He further submitted that there are contradictions even between the eye witnesses however, without considering this aspect, the trial Court mechanically convicted the petitioner and sentenced him to undergo two years imprisonment. In fact, there was no damage caused by electric line, which was laid adjacent to the road. If at all the tractor was driven in a rash and negligent manner, there would be damage to the electric line.

8. Even according to the eye witnesses, the road was not in good condition and it was under repair therefore, there was absolutely no possibility to drive the tractor in a high speed manner. Even according to the case of the prosecution, there was two trailers attached with the tractor and as such, there is no possibility for the tractor to proceed in a high speed manner that too in a rash and negligent manner.

9. Per contra, the learned Government Advocate (Crl. Side) submitted that in order to bring the charges to home, the prosecution examined PWs1 to



11 and marked Exs.P1 to 7. PW1, the father of the deceased was examined and PW2 and 4, eye witnesses were examined. Though all belong to the same village and they were eye witnesses, they categorically deposed that the petitioner drove the tractor in a rash and negligent manner and hit the deceased by first trailer and the second trailer ran over him, due to which, he sustained grievous injuries and died. The tractor and trailers were subjected for motor vehicle inspection and the report was marked as Ex.P3 and the rough sketch was marked as Ex.P6. Therefore, the prosecution clearly proved its case and the Court below rightly convicted the petitioner.

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. Admittedly, the petitioner drove the tractor with two trailers, with fully loaded sugarcane and on the date of occurrence, when the deceased was walking on the left side of the road, the first trailer of the petitioner's tractor hit the deceased and as such he fell down and thereafter, the second trailer ran over him due to which, he succumbed injuries. Normally, the driver of the tractor



could not have noticed that the first trailer and the second trailers' original position since it is the tractor attached with two trailers. If the tractor goes in one direction, the first trailer will go in another direction and the second trailer also will go in the same manner. Therefore, the accused/driver of the tractor could not notice the position of the second trailer. It is very difficult when the tractor is being taken in road and adjacent to the road. Though, PWs2 and 4 are relatives of PW1, their deposition cannot be brushed aside as not trustworthy for the reason that they are relatives.

12. On perusal of their evidence, it is clear that their evidence is trustworthy and does not lack credibility. Both corroborates each other that this Court finds no reason to disbelieve those witnesses.

13. Normally the electric line will be drawn adjacent to the road and there is no question of electricity line to be laid across the road. Therefore, there is no possibility for damaging the electric line, which was situated adjacent to the road. In all the roads, the electric line will be drawn only in the adjacent rows. Hence, the Courts below rightly convicted the petitioner for the offence under Section 279 and 304A IPC.



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14. However, the learned counsel for the petitioner would submit that the entire future of the petitioner will be spoiled if he is sentenced for two years as he is aged 28 years.

15. Considering the above submission, this Court is inclined to reduce the sentence alone. Accordingly, the conviction imposed on the petitioner is hereby confirmed and the sentence imposed by the Court below is reduced from two year to one year.

16. Accordingly, the criminal revision stands partly allowed. Consequently, connected miscellaneous petition is closed.

31.10.2022

Index: Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J.

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To

- 1.The Additional District and Sessions Court,
Ariyalur.
- 2.The Chief Judicial Magistrate,
Ariyalur.

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