



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: .2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL RC No. 965 of 2014

Anandhan

...Petitioner

Vs.

The Inspector of Police
Cuddalore O.T Police Station,
Cuddalore.
Crime No. 138 of 2011

...Respondent.

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the judgment passed in C.A No. 27 of 2013 on the file of Court of Sessions Cuddalore against C.C No. 99 of 2011 on the file of Judicial Magistrate No. 1, Cuddalore.

For Petitioner	:	Mr.N.R.Rajagopalan
For Respondent	:	Mr.L.Baskaran
		Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Case has been filed against the judgment passed in C.A No. 27 of 2013 on the file of Court of Sessions Cuddalore against C.C No. 99 of 2011 on the file of Judicial Magistrate No. 1, Cuddalore.

2. The learned counsel for the petitioner submitted that the Court below failed to consider the contradiction of evidence of father of the deceased/P.W.1 as well as eye witness/P.W.3 and erroneously concluded that accident was happened due to negligence of the petitioner. Further he submitted that the lower Court erroneously held that occurrence took place in mud road based on the scene mahazar but in fact it is narrow road only two vehicle can pass simultaneously through it. At that time of alleged accident when the accused/petitioner drove the lorry on the other side private bus passed in negligent manner with over crowded passenger and another vehicle was proceeded in front of the offending vehicle and also the road was busy with traffic in such circumstances presumption could be drawn in favor of the petitioner in spite of that the Trial Court erroneously fixed liabilities on the part of the petitioner as such is un fair



and liable to be set aside.

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3. By way of reply, the learned Government advocate (Crl side) submitted that the alleged accident was happened due to the rash and negligent driving of the petitioner and he dashed against the bicycle which was driven by the deceased and he taken to the hospital by his father where he declared died. Thereafter, deceased father/P.W.1 gave the complaint immediately based on that complaint the accused was arrested he was charged under Section 279 and 304 (A) of IPC which was proved by examining complainant as well as eye witnesses/P.W.3 and P.W.4 and also as per the Motor Vehicle Inspector/P.W.8 deposed that there is no mechanical defect in the vehicle and the postmortem report also confirms the death of the deceased due to the injuries sustained in the accident and the Court below rightly appreciated all these facts and charges were proved beyond reasonable doubt. Hence he prayed to dismiss this petition.

4. On perusal of records, it reveals the accident was happened at 8.15 a.m on 18.03.2011, at Cuddalore OT, Salakarai Mina Road on South to North direction, opposite to Manikandan Timber workshop, on



that day deceased Ganeshkumar and his father proceeding in two separate bicycles on the left side of the road towards south side, at that time lorry bearing registration No. TDL 9817 was driven by the accused in rash and negligent manner dashed against the bicycle which was driven by the deceased Ganeshkumar due to that he sustained grievous injury and died. Hence the petitioner/accused was charged under Section 279 and 304(A) of IPC to prove the said occurrence eye witness/P.W.4/father of the deceased was cross examined on the side of the prosecution who deposed that at that time of alleged accident he accompanied his son in another bicycle and he along with other three persons took his son to hospital. Furthermore, other eye witnesses also not close relatives of the deceased hence their evidence clearly reveals that immediately after accident they took the deceased to the hospital and the occurrence also proved by the scene mahazar by the prosecution though the accused /petitioner contended that at that time road was very busy with traffic and another private bus was driven in rash and negligent manner so in order to avoid the accident with that bus the accused turned the vehicle on the left side due to which accident was happened but to



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prove the same there is no evidence on the side of the petitioner. But on the other hand prosecution proved the rash and negligence driving of the petitioner beyond reasonable doubt. The Court below rightly appreciated this facts which needs no interference. At the time of arguments the learned counsel for petitioner stated that the petitioner has not caused the accident intentionally. Considering that sentence imposed on the petitioner is modified to undergo simple imprisonment for six months and also to pay a fine of Rs.500/- in default Simple imprisonment for 3 months. The period of sentence already undergone by the accused if any shall be set off. The accused be secured and remand to judicial custody to undergo the remaining period of sentence.

5. Accordingly, this Criminal Revision Case is partly allowed. Consequently, connected miscellaneous petitions are closed.

.06.2023

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



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T.V.THAMILSELVI

pbl

To

- 1.The Court of Sessions, Cuddalore.
- 2.The Judicial Magistrate No. 1, Cuddalore..
- 3.The Public Prosecutor,
High Court, Madras.

Crl. R.C.No.965 of 2014

.06.2023