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Crl.R.C.No.151 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.151 of 2020

Ritish

... Petitioner

Vs.

The State represented by
The Inspector of Police,
A-4, Karumathampatti Police Station,
(Crime No.216/2010)

... Respondent

Prayer: Criminal Revision Petition filed under Section 397 read with 401 of Criminal Procedure Code to set aside the order made in C.A.No.253 of 2018 dated 25.07.2019 on the file of Vth Additional District and Sessions Judge, Coimbtore.

For Petitioner : Mr.K.C.Karl Marx

For Respondent : Mr.R.Murthi
Government Advocate (Crl. side)

ORDER

The Revision has been filed by the petitioner as against the order in C.A.No.253 of 2018 dated 25.07.2019 on the file of V Additional District and Sessions Judge, Coimbtore.



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WEB COPY 2.The respondent police registered a case in Crime No.216 of 2010 for the offences under Sections 279 and 304(A) I.P.C.

3.After the investigation, the respondent police laid the charge sheet before the Judicial Magistrate, Sulur. The learned Magistrate also taken the case on file in C.C.No.352 of 2017. After framing of charges and conducting trial found guilt of the petitioner/ accused for the offences under Section 279 and 304(A) I.P.C. and sentenced under Section 279 to pay a fine of Rs.500/- in default to undergo one week simple imprisonment and under Section 304(A) of I.P.C. sentenced to undergo one year simple imprisonment along with a fine of Rs.3000/- in default to undergo three months simple imprisonment.

4.Aggrieved over the said judgment of conviction and sentence, the accused preferred an appeal before the Principal District and Sessions Judge, Coimbatore. The learned Principal District and Session Judge also taken the appeal on file in Cr.A.No.253 of 2018 and made over the appeal to the Vth Additional District and Sessions Judge, Coimbatore for final

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disposal in accordance with the law.

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5.Learned Vth Additional District and Sessions Judge also after hearing the arguments on both sides, dismissed the appeal and confirmed the judgment and conviction and sentence passed by the Magistrate. Now, aggrieved over the same, the accused has filed the present Revision before this Court.

6.Learned counsel for the Revision petitioner would submit that the ingredients of Section 279 I.P.C has not been made out. The contradictions between the eye witnesses and other witnesses are not taken into consideration and the evidence of PW1 was not corroborated with any other evidence.

7.He would further submit that the bus was hit on the bridge and over turned and the petitioner stopped the vehicle in the middle of the road. The petitioner's vehicle hit on the standing bus and the place of the occurrence itself is in dispute and the same was not established by the prosecution. The appellate Court failed to consider the damages of the vehicle and the report



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of the Motor Vehicle Inspector and there is no evidence to prove that the accident had happened due to rash and negligent driving of the Revision petitioner. The trial Court erroneously convicted and the Appellate Court also without re-appreciating the the evidence, simply endorsed the view of the trial Court which warrants interference.

8.Learned Government Advocate (Crl. Side) would submit that the petitioner along with one Sukumaran and his wife Jayalakshmi drove a Maruthi Auto bearing Registration No.KL-48-3451 in a rash and negligent manner from west to east and tried to overtake the lorry and dashed on Tamil Nadu State Transport Bus bearing Registration No.TN-38-N-1208 that came in the opposite direction from east to west, and caused fatal injury to occupant Jayalakshmi, due to which the injured Jayalakshmi succumbed to the injuries, despite medical treatment. She died on 04.03.2010, therefore, the act committed by the Revision Petitioner falls under Sections 279 and 304(A) I.P.C.

9.In order to substantiate the case of the prosecution, on the side of the prosecution totally 12 witnesses were examined as PW1 to PW12 and 9

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documents were marked as Ex.P-1 to Ex.P-9. On the side of the defence no oral and documentary evidence was let in. Out of the 12 witnesses, PW1, who is injured witness and one who drove the car at the time of the accident and he has clearly narrated the incident and the manner of the driving of the petitioner and there is an erroneous delay in filing the complaint. Mere delay in filing the complaint is not fatal to the case of the prosecution, unless the delay is lead for deliberation. In this case there is no deliberation or false has been implicated and further the accident was admitted and injury was also admitted and one of the person who was travelling in the said car died and the said fact was also admitted. The only question is as to whether the accident happened due to the rash and negligent act of the Revision Petitioner. The injured witness, who is the eye witness who also drove the car at the time of the accident has clearly stated that the accident had happened only due to the rash and negligent driving of the bus. The Doctor evidence also clearly shows the nature of the injury and also the cause of death and report of the Motor Vehicle Inspector also clearly shows that the accident had not taken place due to any mechanical defect of the offending vehicle. Therefore, the prosecution has proved its case beyond all reasonable doubt. Therefore, the trial Court and the Appellate Court have



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rightly convicted the Revision Petitioner for both the charged offences and there is no merit in the revision and the same is liable to be dismissed.

10. Heard the arguments advanced by the learned counsel appearing on either side and perused the materials available on record before this Court.

11. The specific case of the prosecution is that on 26.02.2010 at about 10.00 p.m. the accused along with one Sukumaran and his wife Jayalakshmi drove a Maruthi Auto bearing Registration No.KL-48-3451 in a rash and negligent manner from west to east and tried to over take the lorry and dashed the bus bearing Registration No.TN-38-N-1208 belonging to Tamil Nadu State Transport Corporation came in the opposite direction from east to west on the Coimbatore to Avinashi Road near Karumathampatti Dhanalakshmi Rice Mill and caused fatal injury to the wife of the Revision Petitioner who was travelling in the said car along with one Sugumaran, due to which the wife of the Revision Petitioner namely Jayalakshmi died. Therefore, a case was registered against the Revision Petitioner for the offence under Section 279 and 304(A) I.P.C.



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12. In order to substantiate, on the side of the prosecution totally 12 witnesses were examined and 9 documents were marked. Out of which the driver of the Transport Corporation bus was examined as PW1 in his deposition, he has stated that on 26.02.2010, he was the driver of the bus Tamil Nadu Transport bus bearing Registration No.TN-38-N-1208 and he drove the bus at about 8.30 p.m. from Tiruppur towards Kovai. When the same was nearing to the Karumathampatti four roads nearby Dhanalakshmi Rice Mill, one lorry came from west towards east. The Revision Petitioner over took the said lorry by driving the car bearing Registration No.KL-48-3451 Maruthi Auto car dashed the rear side of the bus and therefore, the PW1 stopped the bus, when conductor got down from the bus and verified the car, three persons were there in the car and they sustained injuries. Therefore, they sent the injured persons to the hospital. Therefore, he gave a complaint against the Revision Petitioner. The conductor of the State Transport Corporation bus was examined as PW2 and he has corroborated the evidence of PW1 and one of the eye witnesses was examined as PW3 and he has also corroborated the evidence of PW1 and PW2. The PW4 also one of the eye witnesses who has also supported the case of the prosecution



and corroborated the evidence of PW1. One of the co-passengers in the car which was driven by the Revision Petitioner was examined as PW6 and has admitted that the Revision Petitioner is the one who drove their car at the time of the accident. In this case, the Doctor also had conducted post-mortem and also gave treatment to the petitioner and also deposed that they sustained injuries and that have caused the death of the deceased. Though the petitioner have vehemently contended that there was a delay of two days in filing the complaint and there was no sufficient light at that time and the accident had not taken place due to the rash and negligent driving of the petitioner and the accident had taken place due to the rash and negligent driving of the *de-facto* complainant PW1 himself and in order to avoid the departmental proceedings and escape from the cludges of the law they foisted a false case.

13.In this case, the some of the eye witnesses and also the conductor of the State Transport Corporation were examined and they have categorically stated that while overtaking the lorry by driving the car in a rash and negligent manner and he dashed the front rear side of the State Transport Corporation bus and due to that his wife died and due to his rash



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and negligent driving only the persons who travelled in the said car succumbed to the injury and which is an accidental injury. Therefore, from the evidence of the Motor Vehicle Inspector and the Doctor and other eye witnesses, the prosecution has proved that the accident has taken place due to the rash and negligent driving of the Revision Petitioner and not due to the mechanical defect or rash and negligence of the *de-facto* complainant. Therefore, both the trial Court and the Appellate Court have rightly appreciated the evidence and convicted.

14.This Court as the Revisional Court has not found out any perversity in the appreciation and re-appreciation of the evidence by both the Courts below and there is no merits in the Revision and the Revision is liable to be dismissed.

15.Accordingly, this Revision is dismissed.

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Index: Yes/ No
Speaking Order : Yes/ No
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To

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1.The Vth Additional District and Sessions Judge,
Coimbtore.

2.The Inspector of Police,
A-4, Karumathampatti Police Station.
(Crime No.216/2010)

P.VELMURUGAN,J.

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