



Crl.R.C.(MD)No.242 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 27.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No. 242 of 2019

Siva

... Petitioner / Petitioner

vs.

The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
(Cr.No. 141 of 2009)

... Respondent/Respondent

PRAYER : This Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., to call for records relating to Judgment passed by the learned District Munsif cum Judicial Magistrate Court, Kamuthi in C.C.No.87 of 2010 dated 12.01.2017 and confirming the Judgment of conviction and sentence passed by the learned Additional District Sessions Court, Paramakudi dated 27.02.2019 in C.A.No.5 of 2017 and set aside the same.

For Petitioner : Mr.N.Dilipkumar

For Respondent : Mr.Vaikkam Karunanithi
Govt. Advocate (Crl. Side)



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ORDER

The Criminal Revision Petition has been filed to set aside the Judgment passed by the learned District Munsif cum Judicial Magistrate Court, Kamuthi in C.C.No.87 of 2010 dated 12.01.2017 in confirming the Judgment of conviction and sentence passed by the learned Additional District Sessions Court, Paramakudi, dated 27.02.2019 in C.A.No.5 of 2017.

2.The case of the prosecution is that on 07.12.2009, when both the deceased were grazing their cattle adjacent to Kamuthi to Parthibanoor Road, the accused had driven his car in a rash and negligent manner and after breaking the milestone which was laid on the left side of the road, dashed against the deceased. Therefore, they sustained grievous injuries and died. On the complaint, the respondent registered the FIR in Crime No.141 of 2009 for the offences punishable under Section 304 (A) (2 counts). After completion of investigation, the respondent police filed the final report and the same has been taken cognizance by the trial Court.

3.On the side of the prosecution, they had examined P.W.1 to P.W.9 and marked Ex.P.1 to Ex.P.9. On the side of the accused, no one was examined and no document was marked.



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4. On perusal of the oral and documentary evidence, the trial Court found him guilty for the offence under Section 304A of IPC (2 counts) and sentenced him to undergo two years Simple Imprisonment for each count and the imprisonment shall run concurrently. Aggrieved by the same, the petitioner has preferred an appeal in C.A.No.5 of 2017 on the file of the learned Additional District Sessions Court, Paramakudi and the same was also dismissed on 27.02.2019 and thereby, confirmed the order conviction and sentence imposed by the trial Court. Hence, the present revision.

5. The learned counsel for the petitioner would submit that there is absolutely no evidence to prove that the petitioner had driven his car in a rash and negligent manner and dashed against the deceased persons. None of the witnesses had identified the petitioner as a driver of the car. No independent witness was examined in order to prove the charges. Though the prosecution stated that the car hit the milestone and thereafter, hit the deceased, even then the car did not suffer any damage at all as per the Motorcycle Vehicle Inspector's Report. Therefore, he prayed for acquittal.



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6.Per contra, the learned Government Advocate (Crl. Side) would submit that in order to bring the charges to prove the case, the prosecution had examined P.W.1 to P.W.9 and marked Ex.P.1 to Ex.P.9. The husband of the first deceased was examined as P.W.1, who was also along with the deceased 1 and 2 and was grazing their cattle. The petitioner had driven his car in a rash and negligent manner and dashed against the milestone and thereafter, dashed against the deceased 1 and 2. Therefore, they sustained grievous injuries and died. The evidence of P.W.1 was also corroborated by the other witnesses. The Motorcycle Vehicle Inspector's Report also revealed that the accident had not happened due to any mechanical default. The Motorcycle Vehicle Inspector's Report was marked as Ex.P.3. Therefore, both the Courts below have rightly convicted and sentenced the petitioner for the offence punishable under Section 304 A of IPC (2 counts) and it has not required any interference by this Court.

7.Heard the learned counsel on either side and perused the materials available on record.



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8.P.W.1 and the deceased 1 and 2 were grazing their cattle adjacent to Kamuthi-Parthibanoor Road on 07.12.2009. The accused had driven his car on the same road from Kamuthi to Parthibanoor and he had hit the milestone and thereafter, hit the deceased 1 and 2. In order to corroborate the evidence of P.W.1, one of the deceased's mother was examined as P.W.4. She categorically deposed that she visited her mother's house on 07.12.2009 and thereafter, the second deceased was taken by the first deceased to graze their cattle along with P.W.1. The car was subjected for Motorcycle Vehicle Inspection and the Motorcycle Vehicle Inspector opined that the accident had not happened due to any mechanical default. That apart, in the front side bumper and right side front lamp of the vehicle, water pump and other, damages were caused to the car due to accident. Therefore, it revealed that the car hit the milestone and thereafter, dashed against the deceased 1 and 2 herein. P.W.1 also categorically deposed that only because of the rash and negligent driving of the petitioner, the accident had occurred. Therefore, both the Courts below rightly convicted the petitioner and it does not require any interference by this Court.



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9.The learned counsel for the petitioner would further submit that the petitioner is ready and willing to compensate the victim's family in order to serve the remaining period of sentence.

10.Considering the above facts and circumstances, this Court is not inclined to interfere with the conviction imposed by the Courts below for the offence under Section 304 A of IPC. However, the sentence of two years Simple Imprisonment is modified as compensation of Rs.1,00,000/- (Rupees One Lakh only) to be paid in favour of the legal heirs of both the deceased on or before **21.08.2023**, by way of deposit to the credit of the trial Court in C.C.No.87 of 2010 on the file of the learned District Munsif cum Judicial Magistrate Court, Kamuthi. On such deposit, the legal heirs of P.W.1 and one of the mother of the deceased are permitted to withdraw the same with accrued interest, if any. If the petitioner fails to deposit the said amount, the sentence imposed by the trial Court is hereby restored without further reference to this Court and the respondent is directed to secure the petitioner to serve the remaining period of sentence.



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11. Accordingly, this Criminal Appeal is partly allowed.

27.06.2023

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NCC : Yes/No

Index: Yes/No

Internet: Yes/No

To

1. The Learned District Munsif cum Judicial Magistrate Court, Kamuthi.

2. The Learned Additional District Sessions Court, Paramakudi

3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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