



Crl.R.C.(MD)No.220 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 23.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.220 of 2018

M.Krishnan

... Petitioner

vs.

The Inspector of Police,
T.Ramanathapuram Police Station
Madurai District
Crime No.12 of 2015

... Respondent

PRAYER : This Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the entire records relating to the judgment passed by the learned IV Additional District and Sessions Judge, Madurai in C.A.No. 51 of 2017 dated 28.02.2018 by modifying the judgement passed by the learned Judicial Magistrate No.II, Usilampatti in C.C. No.406 of 2014 dated 17.05.2017 and set aside the same and consequently acquit the revision petitioner from the charges under section 304(A) of IPC.

For Petitioner : Mr.K.C.Ramalingam

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)



ORDER

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This Criminal Revision Petition is directed against the Judgment passed by the learned IV Additional District and Sessions Judge, Madurai in C.A.No. 51 of 2017 dated 28.02.2018 and by modifying the judgement passed by the learned Judicial Magistrate No.II, Usilampatti in C.C. No.406 of 2014 dated 17.05.2017

2.The case of the prosecution is that on 17.04.2013 at about 09.45 hrs when the deceased was riding his motor cycle bearing Reg.No.TN58 Y 1985 on Sankaralingapuram-Elumalai Road on the extreme right hand side of the road the accused drove his TATA Ace four wheeler bearing Reg.No.TN 58 Y 0996 in the opposite direction in a rash and negligent manner and dashed against the two wheeler. Therefore the deceased succumbed to injuries.

3. The pillion rider of the two wheeler lodged complaint before the Tr.Ramanathapuram Police Station and the same was registered in Crime No.12 of 2015 for the offence under section 304(A) of IPC. The respondent after completing investigation filed final report and the same has been taken cognizance in C.C. No.406 of 2014.



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4.On the side of the prosecution they examined eleven witnesses as P.W.1 to P.W. 11 and marked exhibits Ex.P.1 to Ex.P.9 and no material objects were marked. On the side of the accused neither oral nor documentary evidence were let in.

5.On perusal of the oral and documentary evidence the trial Court found the petitioner guilty for the offence under section 304 (A) of IPC and sentenced him to undergo two years rigorous imprisonment. Aggrieved by the same, the petitioner has preferred an appeal in C.A. No. 51 of 2017 before the learned IV Additional District and Sessions Judge, Madurai. The appellate court confirmed the conviction and reduced the sentence alone from two years to six months and further imposed a fine of Rs.5000/- I/d to undergo simple imprisonment for a period of one month. Hence, the present revision has been filed.

6.The learned counsel for the petitioner would submit that absolutely there is no evidence to show that the petitioner has driven his vehicle in a rash and negligent manner. Except the pillion rider no one had spoken about the occurrence. Only because of the rash and negligent driving of the deceased the incident had occurred. He had driven the



vehicle in an uncontrollable speed and negligent manner. Infact the pillion rider of the vehicle was not examined as P.W.1 and he admitted that the deceased had attempted to driven the vehicle in a speedy manner. In fact the person who accompanied the petitioner in the four wheeler deposed that the deceased hit the angle bar of the four wheeler which was located in the middle of the vehicle and hence he fell down and sustained injuries and died and therefore absolutely there is no evidence to show that the petitioner hit the two wheeler and caused the accident. However without considering the same, the learned Magistrate had mechanically convicted the petitioner for the offence under section 304(A) of IPC. When there is no specific overt act as against the petitioner as if he drove the vehicle in a rash and negligent manner benefit of doubt goes in favour of the petitioner and the conviction and sentence imposed on the petitioner cannot be sustained and it has to be set aside and prayed for acquittal of the petitioner from all the charges.

7.Per contra, the learned Government Advocate (CrI. side) would submit that eye witness to the occurrence had categorically deposed that only because of the rash and negligent driving of the petitioner the accident had taken place on the single road and when the deceased was driving his motorcycle on the extreme right hand side of the road, the



petitioner had driven his four wheeler in a rash and negligent manner and hit the motor cycle , therefore he sustained injuries and died. It is also corroborated by the report of the Motor Vehicle Inspector and evidence of the eye witnesses. Therefore the Courts below have rightly convicted the petitioner and it does not require any interference by this Court, hence, he prayed for dismissal of the revision.

8.Heard both sides and perused the materials available on record.

9. On 17.04.2013 at about 09.45 hrs when the deceased was riding his two wheeler along with PW.1, the petitioner came in the opposite direction and hit the motorcycle, therefore he fell down and sustained grievous injuries. Unfortunately he succumbed to injuries. On the complaint lodged by P.W1 namely pillion rider the case came to be registered and complaint was marked as Ex.P.1. In pursuant to the said complaint FIR was registered and marked as Ex.P.2. Admittedly the petitioner had loaded iron rods and came from opposite direction . The person who accompanied the deceased vehicle had deposed that the petitioner had driven the vehicle in a rash and negligent manner and since it was fully loaded, he lost his control, therefore when the deceased was driving his motor cycle on the extreme right hand side of the road,



the petitioner hit the motorcycle and he fell down. Thereafter the petitioner fled away from the scene of occurrence. P.W.2 has also corroborated the said evidence and supported the case of prosecution. Though the petitioner had taken specific stand that the incident had occurred only because of the rash and negligent driving of the deceased, in order to substantiate the contention, the petitioner failed to examine any of the witnesses.. In fact he failed to make any submission under section 313 of Cr.P.C.

10. That apart on persual of the Motor Vehicle Inspector's report which was marked as Ex.P.6 would reveal that the front side bumper and indicator of the Tata Ace vehicle were completely damaged in the accident. Further it is clear that the petitioner's vehicle also got damaged due to hitting the vehicle of the deceased and as such it is corroborated the eye witnesses. It is also seen from the evidence that the petitioner had driven his vehicle in the rash and negligent manner with uncontrollable speed and he lost the control while negotiating the curve and after crossing the bend, instead of turning to the left, the vehicle would have gone straight towards eastern end of the road and hit the two wheeler of the deceased which came in the opposite direction, therefore the deceased sustained grievous injuries and died. Hence both



the courts below have rightly convicted the petitioner and sentenced him to undergo six months imprisonment. Therefore this Court finds no illegality in the order passed by the Courts below and the revision is liable to be dismissed.

11. Accordingly the revision stands dismissed by confirming the judgment of the learned IV Additional District and Sessions Judge, Madurai. The respondent is directed to secure the revision petitioner/accused and commit him to prison to undergo the remaining period of sentence.

23.03.2023

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NCC : Yes/No

Index: Yes/No

Internet: Yes/No

To

1. The IV Additional District and Sessions Judge, Madurai
2. The Judicial Magistrate No.II, Usilampatti
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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G.K.ILANTHIRAIYAN , J.

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