



Crl.R.C.(MD)No.247 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.247 of 2018

Gnanamani

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Gandarvakottai Police Station,
Pudukkottai District.
(Crime No.100/2013)

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records of the learned Sessions Judge, Mahila Neethimandram, Pudukkottai in Crl.A.No.1 of 2017 by judgment dated 21.12.2017, by which confirming the conviction and sentence of imprisonment imposed by the learned Judicial Magistrate, Pudukkottai in C.C.No.150 of 2013 by the judgment dated 05.04.2016 and set aside the judgments of the Courts below and acquit the petitioner.

For Petitioner : Mr.S.Deenadhayan



WEB COPY



Crl.R.C.(MD)No.247 of 2018

For Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been filed to set aside the judgment of the learned Sessions Judge, Mahila Neethimandram, Pudukkottai in Crl.A.No.1 of 2017 dated 21.12.2017, by which confirming the conviction and sentence of imprisonment imposed by the learned Judicial Magistrate, Pudukkottai in C.C.No.150 of 2013 by the judgment dated 05.04.2016.

2.The case of the prosecution is that on 25.05.2013, at about 05.30 pm., when the deceased along with Paciyaraj and Sudhagar in his motor cycle were proceeded to Kantharvakottai to Pattukkottai main road, near Mattankal Perumal's Aarspathi Thoppu, from the opposite side, the petitioner had driven his van bearing Reg.No.TN49AW9097 in a rash and negligent manner and hit against the two wheeler. Therefore, all the three persons sustained grievous injuries and died on the spot. After registering FIR, the respondent completed investigation and filed final



report and the same has been taken on file by the trial Court for the offence under Section 304(A) (three counts) as against the petitioner.

3. On the side of the prosecution, they had examined P.W.1 to P.W.17 and marked Ex.P.1 to Ex.P.12. On the side of the accused, no one was examined and no document was marked. On perusal of oral and documentary evidence, the trial Court found the petitioner guilty for the offence under Section 304(A) IPC and sentenced him to undergo six months simple imprisonment and each go concurrently. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed by confirming the order passed by the trial Court. Hence, the present revision.

4. The learned counsel appearing for the petitioner would submit that the prosecution failed to prove its case beyond any doubt. There is contradiction between P.W.1, P.W.2 and P.W.3. P.W.1 and P.W.3 did not even whisper about the presence of P.W.2. Therefore, they were not eye witness to the occurrence. They are interested witnesses and as such, the prosecution failed to prove its case. The petitioner had 30 years of



experience in driving and accident was not occurred due to his rash and negligent driving. The accident had occurred only because of negligent driving of the deceased. In fact, in the two wheeler, the deceased travelled along with two other persons as triplets, which is against the traffic rules. The petitioner had driven his vehicle in the left hand side of the vehicle. Though passengers were very much available in the van, the prosecution failed to examine any passengers, who travelled in the van. P.W.2 had categorically admitted that there was public in and around the place of occurrence and even then, the prosecution did not examine any general public to prove its case. The petitioner is first time offender and as such, he seeks relief under Probation of Offenders Act and also under Section 360 Cr.P.C.

5.Per contra, the learned Government Advocate(Crl.side) appearing for the respondent would submit that three persons were died on the spot only because of the rash and negligent driving of the petitioner. It is main road proceed from Kandharvakottai to Pattukottai, in which, the petitioner had driven his vehicle on the right hand side of the road and hit the two wheeler. Therefore, all the persons, who



travelled in the two wheeler sustained grievous injuries and died on the spot. Eye witnesses were examined as P.W.1 & P.W.3 and they categorically deposed that the petitioner had driven his vehicle in a rash and negligent manner and also in high speed and hit the two wheeler. They also categorically identified the petitioner as driver of the van. Therefore, the prosecution proved its case and the Court below rightly convicted the petitioner and it does not warrant any interference by this Court.

6.Heard both sides and perused the materials available in the record.

7.On 25.05.2013, at about 05.30 pm., when the deceased along with two other persons travelled in two wheeler from Kantharvakottai to Pattukottai main road, near Mattankal Perumal's Aarspathi Thoppu, from western side to eastern side, the petitioner had driven his van from the opposite side in a rash and negligent manner and also in high speed and dashed against the two wheeler. Therefore, all the three persons fell down and sustained grievous injuries and died. P.W.1 to P.W.3 were



also travelling behind the two wheeler in their respective two wheelers.

They were eye witness to the occurrence and deposed in support of case of the prosecution. According to them, they were proceeding in the same direction and the petitioner had driven his vehicle in a rash and negligent manner and dashed against the two wheeler. Therefore, they fell down and sustained injuries. All three persons died on the spot.

8.The Motor Vehicle Inspector was examined as P.W.9 and he deposed that the accident was not happened due to any mechanical default of the van. P.W.1 to P.W.3 also deposed that the petitioner only drove the van. The motor vehicle inspection report was marked as Ex.P.

7. On perusal of Ex.P.7 also revealed that right hand side front side of the van got damaged due to the accident. The rough sketch, which was marked as Ex.P.11 also revealed that the accident was happened on the right hand side of the road. Therefore, the prosecution categorically proved its case beyond any doubt and this Court finds no infirmity or illegality in the order passed by the Court below.



CrI.R.C.(MD)No.247 of 2018

9.However, considering the age of the petitioner, this Court is inclined to reduce the sentence as the period, which was already undergone by the petitioner. Accordingly, the conviction for the offence under Section 304(A)(3 counts) imposed by the Court below is hereby confirmed and sentence of six months for each count is reduced to the period, which was already undergone by the petitioner.

10.In the result, this criminal revision case is partly-allowed.

06.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gns

To

1.The Sessions Judge, Mahila Neethimandram, Pudukkottai

2.The Judicial Magistrate, Pudukkottai

3.The Inspector of Police,
Gandarvakottai Police Station, Pudukkottai District.

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



WEB COPY



Crl.R.C.(MD)No.247 of 2018

G.K.ILANTHIRAIYAN,J.

gns

Crl.R.C.(MD)No.247 of 2018

06.06.2023