



Crl.R.C.(MD)No.262 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2023

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

Crl.R.C.(MD)No.262 of 2018
and Crl.M.P.(MD)No.3568 of 2018

Tamilselvan

... Petitioner

Vs.

The Sub Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.
(Crime No.8 of 2010)

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the order of conviction inflicted as against the petitioner passed in S.T.C. No.331 of 2010 on the file of the learned Judicial Magistrate No.I, Srivilliputhur, Virudhunagar District dated 30.11.2010, confirming the said order passed by the learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur in C.A.No.140 of 2010 dated 15.02.2017.

For Petitioner : Mr.M.Jegadeesh Pandian

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



ORDER

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This Criminal Revision Case has been filed to set aside the order of conviction inflicted as against the petitioner passed by the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur in C.A.No.140 of 2010 dated 15.02.2017 confirming the order passed in S.T.C. No.331 of 2010 on the file of the learned Judicial Magistrate No.I, Srivilliputhur, Virudhunagar District dated 30.11.2010.

2.The case of the prosecution is that on 09.02.2010, at about 07.30 am., when the victim was about to go by bus to her school, at Nathampatty Bus stop in Rajapalayam National Highway, the accused had taken the bus, without noticing that the victim was not get boarded the bus, in a rash and negligent manner. Therefore, the victim fell down from the steps of the bus back wheel of the bus ran over on her left leg. Hence, she sustained grievous injury on her left foot.

3.Thereafter, she lodged a complaint and the same was registered in Cr.No.8 of 2010 for the offence punishable under Sections 279, 338 IPC. After completion of investigation, final report has been filed and the



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same was taken cognizance by the learned Judicial Magistrate No.I, Srivilliputhur, Virudhunagar District in S.T.C.No.331 of 2010. On the side of the prosecution P.W.1 to P.W.13 were examined and marked Ex.P.1 to Ex.P9. The prosecution also marked one material object. 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 accused guilty for the offence punishable under Sections 279, 338 IPC and sentenced him to undergo three months simple imprisonment and to pay a fine of Rs.500/- i/d to undergo one month simple imprisonment for the offence punishable under Section 279 IPC and also sentenced him to undergo six months simple imprisonment and to pay a fine of Rs.1000/- i/d to undergo three months simple imprisonment for the offence punishable under Section 338 IPC. Aggrieved by the same, the petitioner filed an appeal and the same was dismissed by confirming the conviction and sentence imposed by the trial Court. Hence, the present revision.

4.The learned counsel appearing for the petitioner raised grounds that no witness has spoken to corroborate with the rough sketch, which



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was marked as Ex.P.9 in order to prove the case of the prosecution.

There was huge delay in registering FIR. The occurrence had taken on 09.02.2010 at about 07.30 am., whereas the complaint was lodged only at 12.00 noon and FIR was registered only at about 02.00 pm., in Cr.No.8 of 2010, which was reached the learned Judicial Magistrate only on 10.02.2010. P.W.1 to 3 are close relatives of the victim and as such, their presence in the occurrence place is very much doubtful.

5.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that both Courts below concurrently held that the petitioner is liable for the injury sustained by P.W.1 and rightly convicted and sentenced him for the offence punishable under Sections 279 and 338 IPC. P.W.1 to P.W.3 were eye witnesses and they cogently deposed and supported the case of the prosecution. There was absolutely no delay in registering FIR and sending the same to the jurisdictional Court. The accident was taken place on 09.02.2010 and FIR was registered on the same day and the very next day it was sent to the jurisdictional Court. Therefore, he prayed for dismissal of this revision case.



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6. On 09.02.2010, at about 07.30 am., when the complainant was about to get into the bus bearing Reg.No.TN/72/N/0878, at Nathampatty bus stop, the accused had taken the bus in a rash and negligent manner, without waiting for the signal from the conductor. Therefore, the victim fell down from the bus's front staircase and the back wheel of the bus rolled over on her left leg. Therefore, she sustained grievous injuries. Immediately, the complaint was lodged and the same was registered in Cr.No.8 of 2010 for the offence punishable under Sections 279 and 338 IPC.

7. The victim was examined as P.W.1. P.W.2 and P.W.3 were eye witnesses to the occurrence. On perusal of evidence of P.W.1 revealed that when she was about to board the bus, the petitioner started the bus in a rash and negligent manner without even waiting for signal from the conductor. Therefore, the victim, being lady, fell down from the bus and back wheel of the bus rolled over on her left leg and as such, she sustained grievous injury on her left foot. P.W.2 and P.W.3 are independent witnesses and they also categorically deposed about the



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accident. The conductor was examined as P.W.9 and he deposed that when P.W.1 was about to entered into the bus, she fell down and sustained injuries. The Motor Vehicle Inspector inspected the bus and submitted his report, which was marked as Ex.B.6. It revealed that the bus was intact and there was no fault in the engine.

8.Insofar as the complaint is concerned, after receipt of the information, P.W.11 went to Srivilliputhur Government Hospital and recorded the statement of the victim at about 09.00 am. Thereafter, he registered FIR. The very next day, FIR was sent to the jurisdictional Magistrate. Therefore, there was absolutely no delay in registering FIR and sending the same to the jurisdictional Magistrate. Therefore, both Courts below rightly convicted the petitioner for the offence punishable under Sections 279 and 338 IPC.

9.It is a case of injury and as such, this Court is inclined to modify the sentence alone. Accordingly, the conviction is hereby confirmed. Insofar as sentence is concerned, it is modified as compensation of Rs.25,000/- payable by the petitioner in favour of P.W.1 by way of



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Demand Draft on or before 15.05.2023 and the petitioner shall produce the acknowledgment before the respondent. If the petitioner fails to comply with the said condition, the sentence imposed by the Court below will be restored and the respondent is at liberty to secure the petitioner to serve remaining period of sentence.

10.In the result, this criminal revision case is partly-allowed.
Consequently, connected miscellaneous petition is closed.

11.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate No.I, Srivilliputhur,
Virudhunagar District.
- 2.The Principal District and Sessions Court,
Virudhunagar District at Srivilliputhur
- 3.The Sub Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,



Madurai.

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G.K.ILANTHIRAIYAN,J.

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