



Crl.R.C.(MD)No.583 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2023

CORAM

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

Crl.R.C.(MD)No.583 of 2018

Muthupandi

... Petitioner

Vs.

State through
The Inspector of Police,
Nilakottai Station,
Dindigul District.
(In Crime No.08 of 2013)

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records connected with C.A.No.55 of 2017 dated 07.08.2018 on the file of the learned Additional Sessions Court, Dindigul and set aside the same.

For Petitioner : Mr.R.Alagumani

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



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ORDER

This Criminal Revision Case has been filed to set aside the judgment in C.A.No.55 of 2017 dated 07.08.2018 on the file of the learned Additional Sessions Court, Dindigul.

2.The case of the prosecution is that on 09.01.2013, at about 05.15 am., the deceased and P.W.1 to P.W.3 were taking the cows for grazing. At that juncture, while they were proceeded from Nilakottai to Madurai Road near Karigalan Petrol bunk, the accused drove his lorry bearing Reg.No.TN69F5755 in rash and negligent manner and hit the cows and the deceased also. The lorry was used for carrying river sand illegally. Due to the accident, six cows were killed and one person sustained grievous injuries and died on the spot. Based on the complaint, the respondent registered FIR in Cr.No.8 of 2013 for the offence under Sections 279, 304(A) IPC and Section 4(1)(A) r/w 21(1)(a) of the Mines and Minerals Act. After completion of investigation, the respondent filed final report and the same has been taken cognizance by the trial Court.



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3.In order to prove the charges, the respondent examined P.W.1 to P.W.17 and marked Ex.P.1 to Ex.P9. 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 Sections 279 and 304(A) IPC and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- in default one month simple imprisonment for the offence under Section 279 IPC and to undergo one year simple imprisonment and to pay a fine of Rs.5,000/- in default to undergo one month simple imprisonment for the offence under Section 304(A) IPC. Aggrieved over the same, the petitioner preferred an appeal and the same was also dismissed. Hence, the present revision.

4.The learned counsel appearing for the petitioner would submit that the prosecution failed to prove charges under Sections 279, 304(A) IPC, in accordance with law. There is absolutely no evidence to show that who lodged the complaint. Further, the occurrence took place in the road with the width of 24 feet. The accident was not taken place due to



the rash and negligent driving of the petitioner, since the road width is only 24 feet, in which, the deceased and two others proceeded with 70 cows. Without obeying the traffic rules, the deceased and others proceeded in the middle of the road and as such, there was absolutely no negligence on the part of the petitioner while hit the cows and the deceased. Further, no one had spoken that the petitioner drove his vehicle in a rash and negligent manner. P.W.1 and P.W.2 did not even whisper about the presence of P.W.3. P.W.3 deposed that P.W.1 and P.W.3 along with the deceased were proceeded with their cows for grazing. The trial Court also acquitted the petitioner for the offence under Section 4(1)(A) r/w 21(1)(a) of the Mines and Minerals Act, since the prosecution failed to prove its case beyond any doubt. 70 cows proceeded in single road and there was quarrel between them and started to come to the middle of the road. Therefore, the accident was caused and not due to the negligent driving of the petitioner herein.

5.Per contra, the learned Government Advocate(Crl.side) appearing for the respondent would submit that the prosecution had examined P.W.1 to P.W.17 and categorically proved its case beyond any



doubt. Therefore, it does not warrant any interference by this Court, since it was confirmed by the appellate Court.

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

7.Unfortunately one person along with six cows died due to the accident committed by the petitioner herein. On 09.01.2013, when the deceased along with P.W.1 to P.W.3 proceeded to graze their cows, numbering 70, at about 05.15 am., the petitioner had driven his vehicle in rash and negligent manner and hit the cows and one person, due to which, the deceased sustained grievous injuries and died on the spot and six cows also died. P.W.1 to P.W.3 categorically and cogently deposed that only because of the rash and negligent driving of the petitioner, the accident has taken place.

8.Further, on perusal of the motor vehicle inspection report, which was marked as Ex.P.8 through P.W.16, revealed that the accident was not happened due to any mechanical fault of the lorry. P.W.1 to P.W.3



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categorically deposed that the petitioner had driven his vehicle in a rash and negligent manner. Therefore, the prosecution had proved its case beyond any doubt and accordingly, the Courts below rightly convicted the petitioner for the offence under Sections 279 and 304(A) IPC. However, considering the age of the petitioner, this Court is inclined to reduce the punishment alone. Accordingly, the conviction passed by the Court below is hereby confirmed. Insofar as sentence is concerned, it is reduced from the period of one year to the period of three months. The respondent police is directed to secure the petitioner in order to serve the remaining period of sentence.

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

05.06.2023

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

- 1.The Additional Sessions Court,
Dindigul.
- 2.The Judicial Magistrate,
Nilakottai.
- 3.The The Inspector of Police,
Nilakottai Station,
Dindigul 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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