



Crl.R.C.(MD)No.318 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 02.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.318 of 2018

Vijayakumar

... Petitioner

VS.

The Sub Inspector of Police,
Krishnankovil Police Station,
Virudhunagar District
Crime No.136 of 2007

... 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 and set the order of conviction inflicted as against the petitioner passed in C.C. No.360 of 2007 on the file of the learned Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District dated 24.04.2009 confirming the said order passed by the learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur in C.A. No.58 of 2009 dated 02.08.2017

For Petitioner : Mr.T.Sugadev

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



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ORDER

This Criminal Revision case is directed against the conviction inflicted as against the petitioner by the order passed by the learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur in C.A. No.58 of 2009 dated 02.08.2017 confirming the order passed in C.C. No.360 of 2007 on the file of the learned Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District dated 24.04.2009.

2.The case of the prosecution is that on 07.06.2007, at about 09.30 pm., when the deceased was riding his TVS Suzuki Motor cycle bearing Reg.No. TN -67- S-2886 in the left side of the Madurai- Srivilliputhur road near Dr.Selvaraj's house situated on south to Krishnankovil, the accused who was driving the Government bus bearing Reg. No. TN 58 N 0427 in a rash and negligent manner to overtake the bus, has dashed against the motor cycle of the deceased, due to which ,he sustained injuries on his entire body and died on the spot.

3. On the complaint lodged, the respondent police registered a case in Crime No.136 of 2007 for the offence under section 304(A) IPC. After completion of investigation, the respondent filed the final report



and the same has been taken cognizance in C.C. No.360 of 2007 by the trial Court.

4. On the side of the prosecution they had examined fourteen witnesses as P.W.1 to P.W. 14 and marked exhibits Ex.P.1 to Ex.P.9 and one material object was marked. On the side of the accused, neither oral nor documentary evidence was 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 six months rigorous imprisonment and to pay a fine of Rs.3000/- in default to undergo two months rigorous imprisonment. Aggrieved by the same, the petitioner has preferred an appeal in C.A. No.58 of 2009 before the learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur. The appellate Court confirmed the conviction imposed by the trial Court. Hence, the present revision has been filed.

6. The learned counsel for the petitioner would submit that the petitioner is aged about 64 years and he is unable to serve the sentence as imposed by the Courts below. He further submitted that there is also



contradictions between the First Information Report and the Inquest Report. The direction of the bus itself is changed in the inquest report.

Therefore, the prosecution failed to prove its case.

7. Heard the learned Government Advocate(Crl.Side) and perused the materials available on record.

8. A perusal of the records reveals the fact that PW.1 and P.W.2 are eyewitnesses to the said occurrence and both have categorically deposed that while the petitioner was driving his bus towards Madurai and while overtaking another bus he hit the two wheeler of the deceased who was riding his motor cycle on the left hand side of the road from Madurai. Therefore, it is clear that the petitioner was driving his bus from the opposite side, that too, while another bus was driven in a rash and negligent manner, hit the motor cycle of the deceased, due to which,he sustained injuries all over the body and died on the spot. The Motor Vehicle Inspector who inspected the petitioner's bus was examined as P.W.10 who also categorically deposed that the right hand side front portion of the bus got damaged. It categorically proves that the bus which was driven by the petitioner at the extreme right hand side of the road and hit the motor cycle. He also issued Motor Vehicle Inspection report



which was marked as Ex.P.6 . It reveals that the accident had not happened due to any mechanical fault. Therefore the Courts below have rightly convicted the petitioner for the offence under section 304(A) of IPC. However, considering the age of the petitioner, this Court modifies the sentence into compensation.

9. Accordingly, the sentence imposed as against the petitioner for the offence under section 304(A) of IPC is modified into compensation. The petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One lakh only) to the credit of Crime No.136 of 2007 on the file of the respondent police before the learned Judicial Magistrate No.II, Srivilliputhur on or before **03.07.2023**. On such deposit being made, the legal heirs of the deceased are permitted to withdraw the same by filing proper application. It is made clear that if the petitioner fails to deposit the said amount on or before 03.07.2023, the respondent is at liberty to secure the petitioner and subject him to serve the remaining period of sentence as imposed by the Courts below.



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10. Accordingly this Criminal Revision case is partly allowed to the extent indicated above.

02.06.2023

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NCC : Yes/No

Index: Yes/No

Internet: Yes/No



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To

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1. The Principal District and Sessions Court,
Virudhunagar District at Srivilliputhur
2. The Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District
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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