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Crl.R.C.(MD)No.665 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 12.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.665 of 2018
and
Crl.M.P(MD) No.10790 of 2018

V.Ramadoss

... Petitioner

vs.

The Inspector of Police
Fort North Traffic Investigation,
Police Station, Tiruchirapalli,
Tiruchirapalli District

... 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 judgment dated 31.07.2018 passed in Crl.A.No.74 of 2017 on the file of the learned Sessions Judge, Tiruchirapalli Division, Tiruchirapalli, Tiruchirapalli District confirming the conviction and sentence imposed upon the petitioner in C.C. No.25 of 2016 on the file of the learned Judicial Magistrate No.I, Tiruchirapalli, Tiruchirapalli District dated 19.07.2017 and acquit the petitioner.

For Petitioner : Mr.K.Veilmuthu

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



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ORDER

This Criminal Revision case is directed against the conviction imposed as against the petitioner by the learned Sessions Judge, Tiruchirapalli District in Crl.A.No.74 of 2017 confirming the order passed in C.C. No.25 of 2016 on the file of the learned Judicial Magistrate No.I, Tiruchirapalli, Tiruchirapalli District dated 19.07.2017

2.The case of the prosecution is that on 19.06.2015 at about 13.00hrs while the injured was driving his TVS XL Super two wheeler bearing Reg.No. TN 48 T 0525 from Woraiyur to Chatram Bus Stand in the east direction towards Tajmahal petrol bulk , the petitioner drove his TNSTC bus bearing Reg.No. TN 55 N 0785 from west to east direction in a rash and negligent manner and dashed against the injured, thereby he sustained injuries and his both legs were amputated.

3. On the complaint lodged, the respondent police registered a case in Crime No.201 of 2015 for the offence under sections 279 and 338 of IPC. After completion of investigation, the respondent filed the final report and the same has been taken cognizance in C.C. No.25 of 2016 by the trial Court.



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4. On the side of the prosecution they had examined six witnesses as P.W.1 to P.W. 6 and marked exhibits Ex.P.1 to Ex.P.8 and no 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 sections under sections 279 and 338 of IPC and sentenced to petitioner to undergo 6 months simple imprisonment for the offence under section 279 of IPC and sentenced him to undergo two years simple imprisonment and to pay a sum of Rs.2000/- in default to undergo one month simple imprisonment for the offence under section 338 of IPC. Aggrieved by the same, the petitioner has preferred an appeal in C.A. No.74 of 2017 before the learned Sessions Judge, Tiruchirappalli. 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 because of the rash and negligent driving of the injured, the bus dashed against him and absolutely, there is no evidence to show that the bus was driven in a rash and negligent manner. Infact P.W.5 the conductor of the bus has categorically deposed that the bus was stopped in the signal and thereafter the bus was started by the petitioner where the two wheeler after filling up



petrol in the petrol bulk suddenly came out from the petrol bulk and as such the bus dashed against the two wheeler. Therefore there is contributory negligence on both side. Therefore he prayed for acquittal.

7. The learned Government Advocate(Crl.Side) would submit that there were eyewitnesses to prove the case of prosecution. P.W. 1 to P.W.3 have categorically deposed that only because of the rash and negligent driving of the driver of the bus, the accident had happened and as such, one person sustained injuries. Therefore, both the Courts below have concurrently convicted the petitioner for the offences under sections 279 and 338 of IPC.

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

9. A perusal of the rough sketch would show that the injured after filling the fuel from the petrol bulk, which is situated in the corner, came out from the petrol bulk and when the petitioner drove his bus after stopping in the signal , hit against the two wheeler of the injured due to which he sustained injuries and his both legs got amputated. Further, the Motor Vehicle Inspector's investigation reveals that the accident had not happened due to any mechanical fault, whereas the conductor of the bus was also examined as P.W.5. He categorically deposed that the bus stopped in the signal and after signal the bus was proceeding towards east side and the injured came out



from the petrol bulk. Therefore, on both sides there was negligence due to which the incident had occurred.

10. Now the petitioner also retired from service and the injured was aged about 79 years. The learned counsel for the petitioner would submit that the sentence may be modified into compensation.

11. In view of the above, the conviction imposed on the petitioner is confirmed and considering the age of the petitioner the sentence imposed on the petitioner for the offence under section 279 and 338 of IPC is hereby modified into compensation. Accordingly the petitioner is directed to deposit a sum of Rs.75,000/- (Rupees Seventy Five thousand only) to the credit of C.C. No.25 of 2016 on the file of the learned Judicial Magistrate No.I, Tiruchirapalli on or before **17.07.2023**. On such deposit being made, the injured or the legal heirs of the injured 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 17.07.2023, 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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12. This Criminal Revision case is partly allowed to the extent indicated above. Consequently connected miscellaneous petition is closed.

12.06.2023

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NCC : Yes/No

Index: Yes/No

Internet: Yes/No

To

1. The Sessions Judge, Tiruchirapalli District
2. The Judicial Magistrate No.I, Tiruchirapalli,
- 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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