



Crl.R.C.(MD)No.523 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2023

CORAM

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

Crl.R.C.(MD)No.523 of 2018

Sekar

... Petitioner

Vs.

The State Rep.by
The Inspector of Police,
Muthukulathur Police Station,
Muthukulathur,
Ramanathapuram District.

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 12.06.2018 made in Crl.A.No.14 of 2017 on the file of the Principal District and Sessions Court, Ramanathapuram modified the order dated 23.05.2017 in C.C.No.127 of 2014 on the file of the Judicial Magistrate Court, Muthukulathur and set aside the same as illegal and allow this criminal revision as prayed for.

For Petitioner : Mr.Althaf Sheriff
for M/S.Ajmal Associates



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

ORDER

This Criminal Revision Case has been filed to set aside the order dated 12.06.2018 made in Crl.A.No.14 of 2017 on the file of the Principal District and Sessions Court, Ramanathapuram modified the order dated 23.05.2017 in C.C.No.127 of 2014 on the file of the Judicial Magistrate Court, Muthukulathur.

2.The case of the prosecution is that on 10.04.2014, when the deceased after purchasing vegetables and after taking money from ATM, near Gandhi statue, the accused came from west side to east, had driven his tractor bearing Reg.No.TN 65 W 6481 in rash and negligent manner and dashed against the deceased, who was came in his two wheeler. Therefore, he sustained grievous injuries and died on the spot.

3.On complaint, the respondent registered FIR in Cr.No.114 of



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2014 for the offence under Sections 304(A) IPC. After completion of investigation, the respondent police filed final report and the same has been taken cognizance by the trial Court. On the side of the prosecution, they had examined P.W.1 to P.W.11 and marked Ex.P.1 to Ex.P.8. 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 one year rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo one month simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the appellate Court confirmed the conviction and modified the sentence from one year to 10 months and enhanced fine amount from Rs.5,000/- to Rs.26,000/-. 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 was contradiction between the evidence of P.W.2 and P.W.3, who were happened to eye witnesses to the occurrence. The postmortem report also not supported the case of the prosecution. According to the case of



the prosecution, the front wheel of the tractor ran over on the head of the deceased. However, on perusal of postmortem revealed that there was no fracture on the deceased's head, whereas, he sustained injuries on his chest. Therefore, death was not due to the accident allegedly committed by the petitioner. Other eye witness, P.W.9 had turned hostile and failed to support the case of the prosecution. Therefore, he prayed for acquittal.

5.Per contra, the learned Government Advocate(Crl.side) appearing for the respondent would submit that on 10.04.2014, when the deceased about to move his two wheeler, after taking money from ATM, near Gandhi Statue, the petitioner had driven his tractor in a rash and negligent manner and dashed against him. Therefore, he sustained grievous injuries and died on the spot. P.W.2 is the eye witness and he categorically deposed that the petitioner only had driven his tractor in a rash and negligent manner and dashed against the deceased. Therefore, he sustained grievous injuries and died. It is also corroborated by other eye witnesses. Both eye witnesses are independent witness. The Doctor, who conducted postmortem was examined and he categorically deposed that the injuries was found on his head and all over the body. The Motor



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Vehicle Inspector was examined as P.W.5 and he deposed that the accident was not happened due to any mechanical defect. Hence, the prosecution categorically proved its case beyond any doubt and both the Courts below correctly convicted the petitioner and it does not warrant any interference by this Court.

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

7.It is seen that on 10.04.2014, when the deceased, after taken money from ATM, near Gandhi Statue, about to move his two wheeler, from the opposite side, the petitioner had driven his tractor in a rash and negligent manner and dashed against him. Front wheel of the tractor was ran over on the deceased. Therefore, he sustained multiple injuries and he died on the spot. P.W.2 and P.W.3 were eye witnesses to the occurrence. They categorically deposed that only on the rash and negligent driving of the petitioner, the accident had occurred and due to which, the deceased sustained grievous injuries and died on the spot.



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8.The Doctor/P.W.6, who conducted postmortem, deposed that the deceased sustained injuries all over his head to chest. No fracture in the head. There was blood bleeding through ear and nose. He died due to the injuries sustained by him during the accident. The postmortem report was marked as Ex.P.7. The postmortem report also corroborated the evidence of the Doctor. The Motor Vehicle Inspector was examined as P.W.5 and he categorically deposed that the accident was not happened due to any mechanical defect. The motor vehicle inspection report was marked as Ex.P.4. Therefore, the prosecution proved its case beyond any doubt and both the Courts below rightly convicted the petitioner. This Court finds no infirmity or illegality in the order passed by both the Courts below. However, considering the age of the petitioner, this Court is inclined to reduce the sentence alone. Accordingly, the sentence imposed by the appellate Court is reduced from 10 months to 4 months.

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

27.06.2023

NCC : Yes / No
Index : Yes / No



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Internet : Yes / No
gns

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To

- 1.The Principal District and Sessions Court,
Ramanathapuram.
- 2.The Judicial Magistrate Court,
Muthukulathur.
- 3.The Inspector of Police,
Muthukulathur Police Station,
Muthukulathur,
Ramanathapuram 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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