



Crl.R.C.(MD)No.721 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2023

CORAM

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

Crl.R.C.(MD)No.721 of 2017

Sasikumar @ Pandiyaraj

... Petitioner

Vs.

The State rep by
The Inspector of Police,
Nalattinpathur Police Station,
Tuticorin District.

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the judgment dated 17.03.2017 in Crl.A.No.21 of 2016 on the file of the First Additional District and Sessions Court, Tuticorin confirming the conviction and sentence imposed in C.C.No.44 of 2010 on the file of the Judicial Magistrate No.I, Kovilpatti dated 25.04.2016 and set aside the same.

For Petitioner : Mr.P.Banuprasath

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



Crl.R.C.(MD)No.721 of 2017

ORDER

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This Criminal Revision Case has been filed to set aside the judgment dated 17.03.2017 in Crl.A.No.21 of 2016 on the file of the First Additional District and Sessions Court, Tuticorin confirming the conviction and sentence imposed in C.C.No.44 of 2010 on the file of the Judicial Magistrate No.I, Kovilpatti dated 25.04.2016.

2.The case of the prosecution is that on 04.07.2009 at about 20 hours, in Kovilpatti-Tirunelveli NH7 four lane road, on the west side, when the petitioner was drove his Tata Sumo Car bearing Reg.No.TN 60J 4777 from south to north side on the same road from the opposite side, the deceased had driven his car bearing Reg.No.TN 01 U 1971, the petitioner dashed against the said car and due to which, the deceased sustained grievous injuries and other witnesses sustained injuries, due to the same, the deceased died and others were taken to the hospital. After recording statements, FIR came to be registered in Cr.No.253 of 2009 for the offence punishable under Sections 279, 337, 338, 304(A) IPC and after completion of investigation, the respondent police filed final report and the same has been take on file by the trial Court. On the side of the



prosecution, P.W.1 to P.W.20 were examined and marked Ex.P.1 to Ex.P.9. On the side of the accused, no one was examined and no document was marked.

3.On perusal of oral and documentary evidence, the trial Court found the petitioner guilty for the offence punishable under Sections 279, 337, 338, 304(A) IPC and sentenced him to pay a fine of Rs.500/- in default three weeks simple imprisonment for the offence punishable under Section 279 IPC. The petitioner was sentenced to pay a fine of Rs. 500/- in default to undergo three weeks simple imprisonment for the offence punishable under Section 337 IPC. He was also sentenced to undergo six months simple imprisonment and to pay a fine of Rs.1,000/- in default four weeks simple imprisonment for the offence punishable under Section 338 IPC. He was sentenced to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- in default to undergo four weeks simple imprisonment for the offence under Section 304(A) IPC. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed by confirming the conviction and sentence imposed by the trial Court. Hence, the present revision.



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4.The learned counsel appearing for the petitioner would submit that admittedly the deceased had driven his vehicle in the wrong road, due to diversion, that too, without any signal. There was no road divider, since it is four lane road. There was diversion in the four lane road and directed the vehicles to go in the same route. Therefore, there must be divider or signal indicating that there is diversion of the route. Without any indication, without any prior signal, the deceased had driven his vehicle in the same route and as such, both vehicles dashed against each other. Due to which, the deceased sustained injuries and died. Therefore, the accident was not taken place due to the rash and negligent driving of the petitioner. In fact, there was no evidence to show that the petitioner had driven his vehicle in a rash and negligent manner and also in a speed manner. In fact, the opposite vehicle also got puncture and due to which, the deceased lost his control and dashed as against the petitioner's vehicle. It was also categorically admitted by the Motor Vehicle Inspector. Both the Courts below unfortunately failed to consider these facts and mechanically convicted the petitioner.



Crl.R.C.(MD)No.721 of 2017

5.Per contra, the learned Government Advocate(Crl.side) appearing for the respondent police would submit that eye witnesses were examined as P.W.1 to P.W.3 and they categorically deposed about the manner in which, the accident had occurred and only because of the rash and negligent driving of the petitioner, the accident had taken place and as such, their evidence was corroborated with each other and completely supported the case of the prosecution. The petitioner also failed to cross-examine P.W.1 to P.W.3 in order to disprove the case of the prosecution. If at all the petitioner committed no fault on his driving, he could have examined other witnesses to prove his stand. That apart, the petitioner failed to make any statements under Section 313 Cr.P.C. Therefore, both the Courts below rightly convicted the petitioner and it does not warrant any interference by this Court.

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

7.Admittedly, there was diversion to drive the vehicles from the four land in Kovilpatti – Tirunelveli route, near 300 meters away from



Idaiseval village. Therefore, the deceased had driven his car in the same route, which was proceeded from Kovilpatti to Tirunelveli in the opposite side. At that juncture, the petitioner had driven his vehicle in the right route and without noticing the said vehicle, the deceased dashed as against the petitioner's vehicle. That apart, there was no signal in the vehicle coming from the north to south. So that, they would have been indicated that there is diversion in the route and therefore, vehicles coming from Tirunelveli to Kovilpatti also diverted on the same route. It is categorically admitted by the Investigating Officer.

8. Though the petitioner failed to cross-examine P.W.1 to P.W.3, on perusal of their evidence revealed that they simply deposed that both vehicles dashed against each other and due to which, the deceased sustained grievous injuries and died. There is also no evidence to show that the petitioner drove his vehicle in a rash and negligent manner. When the traffic was diverted, opposite vehicle should have be very careful, while driving from opposite side. The Motor Vehicle Inspector was examined as P.W.6 and he deposed that the accident was not occurred due to any mechanic defect. However, he found that the



CrI.R.C.(MD)No.721 of 2017

deceased's car got puncture. There is no evidence to show as to whether the deceased's car got puncture before accident or after accident. If the deceased's car got puncture before accident, he would not have control his car and there is chance to dashed against the petitioner's car. Therefore, admittedly, there was no signal or indication for diversion to take care about the vehicles, which was operated on the opposite side of the very same road. Therefore, the prosecution miserably failed to prove the charges as against the petitioner and the entire conviction and sentence cannot be sustained as against the petitioner and liable to set aside. Accordingly, the conviction and sentence imposed by both the Courts below is set aside and the petitioner is acquitted from all the charges. If any bail bond is executed by the petitioner, the same shall be returned.

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

17.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Crl.R.C.(MD)No.721 of 2017

G.K.ILANTHIRAIYAN,J.

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To

- 1.The First Additional District and Sessions Court,
Tuticorin.
- 2.The Judicial Magistrate No.I,
Kovilpatti.
- 3.The Inspector of Police,
Nalattinuthur Police Station,
Tuticorin District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C.(MD)No.721 of 2017



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CrI.R.C.(MD)No.721 of 2017

17.04.2023