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Crl.A.No.193 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.A.No.193 of 2018

R.Sathiyaraj

... Appellant / Accused

vs.

The State Rep. by
the Inspector of Police,
H1-Washermenpet Traffic Investigation Unit,
Chennai North,
(Crime No.227/H1/2016)
Complainant

... Respondent /

PRAYER: Criminal Appeal filed under Section 374 (2) of Criminal Procedure Code, 1973, against the judgment and orders dated 26.02.2018 passed in S.C.No.134/2017 by the XIX Additional Sessions Judge, Chennai.

For Appellant : Mr.T.Shanmuga Boopathi

For Respondent : Mr.S.Raja kumar
Additional Public Prosecutor

JUDGMENT

Challenging the conviction and sentence, dated 26.02.2018, passed by the learned XIX Additional Sessions Judge, Chennai in S.C.No.134/2017, the present Criminal Appeal is filed by the appellant /



Crl.A.No.193 of 2018

accused.

WEB COPY 2. The appellant is the accused in S.C.No.134/2017 and is convicted and sentenced as detailed hereunder:

<i>Accused</i>	<i>Conviction</i>	<i>Sentence</i>
R.Sathiyaraj	Section 304 Part II I.P.C.,	Simple Imprisonment for a period of Seven years
The period of sentences already undergone shall be set off under Section 428 Cr.P.C.		

3. The case of the prosecution in a condensed form is as follows:

3.1. The appellant R.Sathiyaraj, was driving a Eicher van bearing Registration number PY-01-AE-3178 on Korukkupet -Kathivakam High Road on 28.12.2016 at 3.15 p.m. When he was nearing K.N.C. Depot Police Booth, he hit a tricycle driven by one Pushparani, (deceased) as a result of which, the said Pushparani fell down and died on the spot.

3.2. Thiru.Moses (P.W.1) is a Father in a nearby church. According to him, when he was having tea near Police Booth, he saw the Eicher van hitting the tricycle driven by the deceased Pushparani and the tyre of the van running over the head of the victim Pushparani. He lodged a complaint with Thiru.S.Selva Kumar, (P.W.9), the then Inspector of



Police, Washermenpet. P.W.9 received the complaint (Ex.P1) from P.W1 and registered an FIR in crime No.227/H1/2016 against the driver of the Eicher Van bearing Registration number PY-01-AE-3178 for the offence punishable under Section 304 part II I.P.C.,

3.3. P.W.9 took up investigation in Crime No.227/H1/2016, went to the scene of occurrence and prepared a observation mahazar (Ex.P2) and a rough sketch (Ex.P8) in the presence of the witnesses S.Muthukumar (P.W.4) and Jabaraj (P.W.6). He examined Thiru.Suresh (P.W.8) the owner of the Eicher Van bearing registration number PY-01-AE-3178 and arrested the appellant and produced him on the same day. He then went to the Mortuary of nearby Stanley hospital on 29.12.2016 and conducted inquest (Ex.P9) on the body of the deceased in the presence of the Panchayatdhars. Thereafter, he handed over the body to the medical officer (P.W.5) for conducting postmortem.

3.4. Dr.Gokula Krishnan (P.W.5) conducted autopsy in the body of the deceased on 29.12.2016 and found the following injuries:-

"1. Head: Crushed exposing underlying crushed muscles, vessels, nerve and fractured ends of skull and facial bones



Crl.A.No.193 of 2018

WEB COPY

underlying meninges and brain lacerated irregularly.

2. Grazed abrasion 5X3 c.m present over back of chest

3. Lungs : Intact and congested

4. Stomach : Empty

5. Liver, Spleen, Kidneys: Intact and congested

6. ;Genitalia, Hyoid bone, spinal column : Intact

7. Utrus: Intact

8. Heart & Coronary :Intact "

3.5. In the opinion of the doctor, the death is due to head injury.

The postmortem certificate was marked as Ex.P3.

3.6. Thiru.Ravikumar (P.W.7) the Motor Vehicle Inspector Grade I inspected the vehicle on 13.01.2017 and submitted his report (Ex.P4) stating that 'the accident did not take place due to any mechanical failure of the vehicle'.

3.7. P.W.9, after completing investigation, laid a final report against the appellant for the offence punishable under Section 304 part II



Crl.A.No.193 of 2018

I.P.C., before the III Metropolitan Magistrate, George Town in
P.R.C.No.28/2017.

3.8. The learned III Metropolitan Magistrate after furnishing copies of records to the accused under Section 207 Cr.P.C., committed the case to the Court of Sessions. The learned Principal Judge took up the case in S.C.No.134/2017 and made over the same to the XIX Additional Sessions Judge, City Civil Court, Chennai.

3.9. In order to bring home the guilt of the accused, the prosecution examined 9 Witnesses and marked 9 documents.

3.10. When the accused was questioned with regard to the incriminating circumstances appearing in evidence against him under Section 313 Cr.PC, he denied of having committed any offence. However, he did not examine any witness on his side.

3.11. The learned XIX Additional Sessions Judge, City Civil Court, Chennai, after analysing the oral and documentary evidence on record, found the accused guilty of the offence punishable under Section 304 part II I.P.C., convicted and sentenced him as stated in paragraph No.2 vide



Crl.A.No.193 of 2018

her Judgment and orders dated 26.02.2018. Aggrieved over the same, the present appeal is filed by the appellant / accused.

4. Heard Mr.T.Shanmuga Boopathi, learned counsel for the appellant/accused and Mr.S.Rajakumar, learned Additional Public Prosecutor for the respondent/state.

5. It is seen from the complaint (Ex.P1) lodged by Thiru.Moses (P.W.1) that the Eicher van bearing Registration number PY-01-AE-3178 hit the tricycle driven by Pushparani (deceased) on 28.12.2016 at about 3.15 p.m from behind. The Van did not have any valid permit on the date of occurrence. It is seen from the cross examination of P.W.1 and P.W.2 that the Eicher van which came from the northern direction in high speed hit the tricycle driven by Pushparani, who was a physically challenged person. The evidence of P.W.1 and P.W.2 are cogent and acceptable and there is no reason to discard their evidence.

6. It is not the case of the appellant that the deceased Pushparani came in a wrong direction and got hit by the Eicher Van. The rough sketch and the eyewitness account is clear that Pushparani was driving her vehicle on the extreme left side of the road and the Eicher van which



came behind her hit the tricycle. Therefore, it can easily inferred that the driver of the Eicher van (the appellant) was rash and negligent in driving his vehicle. Had the appellant driven the vehicle with caution, he could have avoided the accident. The appellant also drove the vehicle without a valid permit on the busy Highway. The trial Court Judge had by a well reasoned order convicted the accused for the offence under Section 304 Part II I.P.C., and sentenced him to undergo Simple Imprisonment for a period of seven years.

7. Considering the circumstances of the present case, the sentence passed by the trial Court Judge is modified as under:

“the appellant is directed to undergo Simple Imprisonment for a period of three years”

8. In the result,

- i. the Criminal Appeal is Partly allowed;
- ii. the Judgment and orders, dated 26.02.2018 passed in S.C.No.134/2017 by the XIX Additional Sessions Judge, Chennai, is set aside;
- iii. the accused is directed to undergo Simple Imprisonment for a



CrI.A.No.193 of 2018

period of three years.

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iv. The appellant / accused is directed to surrender before the trial Court viz., the XIX Additional Sessions Judge, Chennai within fifteen days from the date of receipt of a copy of this order / uploading of the order, failing which, the trial Court shall take necessary steps to secure the presence of the accused to serve the remaining period of sentence;

30.07.2024

vum

Index : yes/no

Speaking /Non speaking Order

Neutral Citation : Yes / No

To

1. The Inspector of Police,
H1-Washermenpet Traffic Investigation Unit,
Chennai North.
2. The XIX Additional Sessions Judge, Chennai.
3. The Public Prosecutor, High Court, Madras.
4. The Section Officer, Criminal Section, High Court, Madras.



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Crl.A.No.193 of 2018

R.HEMALATHA, J.

vum

Crl.A.No.193 of 2018

30.07.2024