



Crl.R.C. No. 410 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRIMINAL REVISION CASE No. 410 of 2023

&

Crl.M.P. Nos. 3117 & 3119 of 2023

Berjin

..Petitioner

Vs.

The State rep. By
The Inspector of Police,
R-4, Soundarapandiyanar Angadi,
Traffic Investigation Wing (TIW),
T. Nagar, Chennai 600 017.

..Respondent

Prayer: Criminal Revision under Section 397 r/w 401 Cr.P.C. As against the judgment dated 28.12.2022 passed in Crl.A. No. 108 of 2022 by the learned V Additional Sessions Judge, City Civil Court, Chennai confirming the judgment dated 26.05.2022 passed in C.C. No. 508 of 2016 by the learned IV Metropolitan Magistrate, Saidapet, Chennai.



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For Petitioner :: Mr.C.D. Johnson
For Respondent :: Mr. S. Udayakumar,
Govt. Advocate (Crl.Side)

ORDER

The criminal revision challenges the judgments of conviction and sentence imposed on the petitioner for offences under Sections 304A, 279 and 337 IPC by the Courts below.

2. The case of the prosecution is that on 27.08.2015, at about 16.45 hours, the petitioner had driven his vehicle i.e., Eicher Van bearing Registration No. TN-28-L-1379 in a rash and negligent manner at Teynampet T.T.K. Road and K.B. Dasan Road junction and hit a two-wheeler proceeding in the same direction driven by P.W.1/Elumalai along with his wife/Mohanavalli as pillion rider, as a result of which, the pillion rider fell off the vehicle on the right side and the rear wheel of the petitioner's vehicle ran over the head of P.W.1s wife causing her death. On the complaint of PW.1. a case was registered and on completion of investigation, the final report was filed before the IV Metropolitan Magistrate, Saidapet.



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3. The prosecution had examined P.W.S. 1 to 10 and marked Exhibits P1 to P10. The Trial Court, after considering the evidence on record, found the petitioner guilty of the offences stated above and sentenced him to undergo one month simple imprisonment and to pay fine of Rs. 1000/- carrying a default sentence of simple imprisonment for one week for the offence under Section 279 IPC, to undergo one month simple imprisonment and to pay fine of Rs.500/- carrying a default sentence of simple imprisonment for one week for the offence under Section 337 IPC and to undergo simple imprisonment for one month for the offence under Section 304(A) IPC. On appeal, the learned Sessions Judge confirmed the judgment of the Trial Court. Hence, the present revision.

4. Learned counsel for the petitioner would submit that the Motor Vehicle Report, namely, Ex.P7 issued by the Motor Vehicle Inspector/ P.W.9 would show that there was no damage to the vehicle driven by the petitioner and therefore, the prosecution case that the petitioner had hit the two-wheeler cannot be believed; that the evidence of witnesses would further show that the junction is a crowded place; that hence, the petitioner



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could not have driven his vehicle in a rash and negligent manner; that the rough sketch Ex. P9 would show that the accident could not have taken place in the manner as alleged by the eye-witnesses and prayed for setting aside the judgment of conviction.

5. Per contra, learned Government Advocate (Crl. Side) submitted that the prosecution has established its case by examination of P.W.1, the driver of the two-wheeler and P.W.s 5 and 7, who had witnessed the occurrence; that the evidence of P.W.s 1, 5 and 7 are cogent and there is nothing elicited in the cross-examination of these witnesses to discredit their testimonies and that hence, the petitioner has not made out any ground for interference in the above revision.

6. This Court heard the submissions on either side and perused the materials on record.

7. The Courts below have relied on the evidence of P.W.s 1, 5 and 7 to hold that the petitioner is guilty of the aforesaid offences. There is nothing elicited in the cross-examination of these three witnesses to disbelieve their version. However, the learned counsel for the petitioner would submit that their version is improbable since the inspection report of



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the Motor Vehicle Inspector states that there was no damage caused to the vehicle driven by the petitioner. This Court is of the view that merely because there was no damage caused to the petitioner's vehicle, it cannot be said that the accident did not take place in the manner alleged by the witnesses. Admittedly, the left side brake lever of the vehicle ridden by P.W.1 was damaged as per the evidence of P.W.9. The vehicle driven by the petitioner was a heavy vehicle. Therefore, one cannot expect much damage to the vehicle. Hence the absence of damage to the vehicle cannot be a reason to disbelieve the version of eye-witnesses. The witnesses have deposed cogently that the petitioner's vehicle hit the two-wheeler which caused the pillion rider to fall down from the vehicle after which the rear wheel of the petitioner's vehicle had run over the pillion rider resulting in her death. Therefore, this Court finds no infirmity in the judgments of the Courts below holding the petitioner guilty on the evidence of PW.s 1, 5 and 7. The sentence imposed by the Courts below is also reasonable. Hence, no interference is called for. The criminal revision stands dismissed. Connected Crl.M.Ps are closed.

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SUNDER MOHAN,J.

nv

To

1. The V Additional Sessions,
City Civil Court, Chennai.
2. The IV Metropolitan Magistrate,
Saidapet, Chennai.
3. The Public Prosecutor,
High Court, Madras.

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