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Crl.R.C. No. 465 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. 465 of 2023

&

Crl.M.P. No. 3587 of 2023

Sivakumar @ Siva

..Petitioner

Vs.

The State rep. By
Denaducombai Police Station,
Denaducombai Post,
The Nilgiris,
Crime No. 50 of 2006.

..Respondent

Prayer: Criminal Revision under Section 397(1) r/w 401 Cr.P.C. as against the judgment dated 06.01.2023 passed in Crl.A. No. 53 of 2019 by the learned Sessions Judge of Magalir Neethimandram (FTMC), Udhagamandalam of Nilgiris confirming the judgment dated 22.08.2019 passed in C.C. No. 128 of 2006 by the learned Judicial Magistrate, Udhagamandalam, The Nilgiris.



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For Petitioner :: Mr.A. Bobblie
For Respondent :: Mr. S. Udayakumar,
Govt. Advocate (Crl.Side)

O R D E R

The criminal revision challenges the judgments of conviction and sentence as against the petitioner for the offences under Sections 279, 337(30 counts), 338(10 counts) and 304(A) (4 counts) IPC rendered by the Courts below.

2. It is the case of the prosecution that on 31.05.2006, at about 14.45 p.m., the petitioner, who was employed as a driver in Tamil Nadu State Transport Corporation had driven the bus bearing Registration No. 43 N 0367, with many passengers aboard, in a rash and negligent manner due to which the bus capsized and fell into a 40 feet gorge causing the death of 4 persons, grievous injuries to 10 persons and simple injuries to 27 persons. On the complaint given by P.W.1, a case was registered and on investigation, the final report was filed against the petitioner. The prosecution examined P.W.s 1 to 59, which include injured witnesses and eye witnesses and marked Exs. P1 to P54. The Trial Court, on considering



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the evidence of the injured witnesses and also the other relevant materials held that the prosecution has established that the bus was driven in a rash and negligent manner by the petitioner and found the petitioner guilty of the offences aforesaid. The Appellate Court also confirmed the finding of guilt and the sentence imposed by the Trial Court. Hence, the present revision.

3. Learned counsel for the petitioner would submit that the driver himself was injured and therefore, it cannot be said that the driver, namely, the petitioner had invited the accident; it cannot be said that the petitioner is guilty of gross negligence so as to attract the offences alleged against him; that there is nothing on record to indicate that the petitioner is guilty of gross negligence and that in any case, the sentence imposed on the petitioner may be reduced as he has two minor daughters to be taken care of.

4. Per contra, learned Government Advocate would submit that the witnesses namely, P.W.2, P.W.s 4 to 9, P.W.24 and P.W.43 have, in a cogent manner, stated about the occurrence and they have also stated that the bus was driven in a rash and negligent manner; that though a suggestion was put by the defence counsel that the accident had occurred only when the petitioner/driver tried to avoid hitting a calf, the same has not been



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substantiated and in any case, the eye witnesses have falsified this defence and that therefore, the judgments of the Courts below do not warrant any interference in the present revision.

5. Heard the submissions on either side and perused the materials on record.

6. As stated above, the prosecution had examined 59 witnesses of whom many of them are eye witnesses. The Trial Court and the Appellate Court relied on the evidence of P.W.2, P.Ws. 4 to 9, P.W.s 24 and 43 and concluded that the petitioner is guilty of rash and negligent driving. All the witnesses have uniformly stated that instead of taking a right turn, the driver went straight resulting in the bus falling into a 40 feet gorge. To the suggestion put to the witnesses that the accident had occurred only when the driver tried to avoid hitting a calf, the same has been denied by the witnesses outright, which probabalises the prosecution case of rash and negligent driving by the petitioner.

7. In the light of the overwhelming evidence of the eye witnesses, injured witnesses suggesting that the petitioner is guilty of rash and negligent driving, this Court is of the view that the judgments of conviction



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and sentence rendered by the Courts below cannot be faulted with. Further, the sentences imposed by the Courts below, which are just and reasonable have been directed to run concurrently and hence, no interference is called for.

8. In view of the above, the criminal revision case stands dismissed. Connected miscellaneous peitions are closed.

16.12.2024

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To

1. The Sessions Court,
Udhagamandalam, The Niilgiris.
2. The Judicial magistrate,
Udhagamandalam, The Nilgiris
3. The Public Prosecutor,
High Court, Madras.
4. The State rep. By
Denaducombai Police Station,
Denaducombai Post, The Nilgiris.

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SUNDER MOHAN,J.

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