



Crl.R.C.No.835 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

Crl.R.C.No.835 of 2020

Velankanni @ Pushparaj

... Petitioner

Vs.

State represented by
The Sub-Inspector of Police,
Bagayam Police Station,
Vellore.
(Crime No.298/2016)

... Respondent

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code to set aside the judgment and orders dated 20.09.2019 passed in Crl.A.No.36/2019 by the learned Principal Sessions Judge, Vellore modifying the judgment and orders dated 28.03.2019 passed in C.C.No.85/2015 by the learned Judicial Magistrate No.I, Vellore.

For Petitioner : Mr.M.R.Thangavel

For Respondent : Ms.A.Shahana Fathima, GA (Crl. side)



Crl.R.C.No.835 of 2020

WEB COPY

ORDER

Challenging the conviction and sentence passed by the learned Principal Sessions Judge, Vellore in Crl.A.No.36/2019 modifying the conviction and sentence passed by the learned Judicial Magistrate No.I, Vellore, in C.C.No.85/2015, the present criminal revision case is filed.

2. The case of the prosecution as could be discerned from the oral and documentary evidence is as follows :

2.1. On 29.09.2014, the father of the defacto complainant Elumalai (since deceased) was walking on the road in Adukamparai Village. A two wheeler Hero Honda Splendor bearing Reg.No.TN-23-AA-6847 which the revision petitioner was riding hit him, as a result of which, Elumalai fell down and sustained grievous injuries. He was immediately rushed to Government Hospital, Adukamparai, Vellore and was admitted as an inpatient. On 03.10.2014 he succumbed to the injuries.



Crl.R.C.No.835 of 2020

WEB COPY

2.2. Thiru.Moorthy (P.W.7), the then Sub Inspector of Police, Bagayam Police Station on receipt of information from Adukamparai Government Hospital, went to the hospital and recorded the statement of Mathivanan (P.W.1), Son of Elumalai. He registered an FIR (Ex.P3) in Crime No.298/2016 against the present revision petitioner for the offences punishable under Sections 279 & 337 IPC.

2.3. P.W.7 took up investigation, went to the scene of offence and prepared an observation mahazar (Ex.P2) and a rough sketch (Ex.P4) in the presence of the witnesses Shanmugam (P.W.3) and Murugan (P.W.4).

2.4. Since the victim died on 03.10.2014 he conducted an inquest (Ex.P5) on the body of the deceased in the mortuary of the Government Hospital, Vellore. Thereafter, he sent the body for postmortem.



Crl.R.C.No.835 of 2020

WEB COPY

2.5. Dr.K.Selvaraj, conducted autopsy on the body of the deceased on 03.10.2014 and found the following injuries:

- a) Contusion on the left parietal region
- b) Laceration 2.7 x 1 x 1 cm on the posterior occipital region.

In the opinion of the Doctor 'the deceased would appear to have died of head injury'

2.6. Tmt.S.Lakshmi (P.W.8), the then Inspector of Police, Bagayam Police Station took up further investigation in Crime No.298/2016 registered by P.W.7 and altered the sections to 279, 304(A) IPC and sections 185, 181, 196 of the Motor Vehicles Act. The alteration report was marked as (Ex.P11). The Inspector of Police recorded the statements of witnesses individually and after completing investigation laid a final report against the revision petitioner for the aforesaid offences.



WEB COPY



Crl.R.C.No.835 of 2020

2.7. When the accused was questioned under Section 313 Cr.P.C., with regard to the incriminating circumstances appearing in evidence against him, the accused denied of having committed any offence.

2.8. The learned Judicial Magistrate No.I, Vellore after analysing the oral and documentary evidence acquitted the accused for the offences punishable under Sections 185 of M.V. Act and convicted and sentenced the accused for the offences punishable under sections 279 & 304(A) of IPC and Sections 181 & 196 of M.V. Act. as detailed hereunder :

<i>Conviction</i>	<i>Sentence</i>
Sec 279 IPC	A fine of Rs.1,000/-, in default to undergo simple imprisonment for a period of 15 days
Sec 181 M.V. Act	A fine of Rs.500/-, in default to undergo simple imprisonment for a period of 15 days
Sec 196 M.V. Act	A fine of Rs.1,000/-, in default to undergo simple imprisonment for a



Crl.R.C.No.835 of 2020

WEB COPY

<i>Conviction</i>	<i>Sentence</i>
	period of 15 days
Sec 304 (A) IPC	Simple imprisonment for a period of one year

2.9. Aggrieved over the conviction and sentence passed by the trial court judge, the revision petitioner / accused filed an appeal in C.A.No.36/2019 before the Principal Sessions Court, Vellore. The learned Principal Sessions Judge modified the conviction and sentence passed by the trial court judge by acquitting the accused for the offences punishable under Section 279 & 304(A) IPC and confirming the sentence for the offences punishable under Sections 181 & 196 of M.V. Act, as against which the present revision petition is filed.

3. Heard Mr.M.R.Thangavel, learned counsel for the revision petitioner and Ms.A.Shahana Fathima, learned Government Advocate (Crl. side) for the respondent.



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4. The revision petitioner rode the motorcycle and hit a pedestrian (the victim) causing his death. The trial court found him guilty of the offences punishable under Sections 279 & 304(A) of IPC and also Sections 181 & 196 of the Motor Vehicles Act. He was convicted and sentenced for the same. In the appeal, the appellate court, the conviction and sentence under Sections 279 & 304(A) of IPC were set aside and the conviction and sentence under Sections 181 & 196 of the Motor Vehicles Act were confirmed. The appellate court has concluded that the only eyewitness to the accident could not convince the court as to the rash and negligent driving of the revision petitioner/accused. No appeal was filed by the State against the verdict of the appellate court.

5. What the revision petitioner has sought now is that he should be let out scot free even though it is a proven fact that he neither had a driving license nor the two wheeler he was riding was insured. Section 181 and 196 of the Motor Vehicles Act cover these aspects. The result of this accident is death of a person. There can be no two views



Crl.R.C.No.835 of 2020

WEB COPY

about the seriousness of the offence. In fact the trial court was precise in convicting the revision petitioner for the offences punishable under sections 304 & 279 of IPC. Nevertheless the appellate court did not believe the P.W.2 version of the accident and therefore, passed on the benefit of doubt to the accused. Whether there was negligence on the part of the driver/rider needs stronger evidence but absence of insurance or driving licence cannot be overlooked or ignored. The petitioner has not adduced any documentary evidence for this. The appellate court was right in concluding that the conviction and sentence for offences under Section 181 & 196 of the Motor Vehicles Act would stay. I find no infirmity in the verdict of the appellate court.

6. In the result,

- i. The Criminal Revision Case is dismissed.
- ii. The judgment dated 20.09.2019 passed in C.A.No.36/2019 by the learned Principal Sessions Judge, Vellore, is confirmed.
- iii. The revision petitioner/accused shall surrender before the Judicial Magistrate No.I, Vellore, within 15 days from the date of receipt of



Crl.R.C.No.835 of 2020

WEB COPY

a copy of this order, failing which, the Trial Court shall take steps to secure his presence for serving the remaining period of sentence.

18.04.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

- 1.The Principal Sessions Judge, Vellore.
- 2.The Judicial Magistrate No.I, Vellore.
- 3.The Section Officer, Criminal Section, Madras High Court, Chennai.



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Crl.R.C.No.835 of 2020

R. HEMALATHA, J.
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Crl.R.C.No.835 of 2020

18.04.2024