



Crl.R.C.(MD).No.755 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	20.12.2023
Pronounced On	:	19.03.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.755 of 2023

and

Crl.M.P(MD).Nos.10257 & 10258 of 2023

Prabushankar

... Petitioner

Vs.

State Rep by
The Inspector of Police,
Thirukattupalli Police Station
Crime No.113 of 2015

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the impugned judgment of conviction and sentence passed by the learned Principal Sessions Judge, Thanjavur in C.A.No.113 of 2022 dated 19.06.2023, confirming the judgment of conviction and sentence passed by the learned Judicial Magistrate, Thiruvaiyaru in C.C.No.77 of 2016 dated 01.12.2022 and set aside the same.



Crl.R.C.(MD).No.755 of 2023

For Petitioner : Mr.G.Karuppasamy Pandian

For Respondents : Mr.R.Sivakumar
Government Advocate (Crl.Side)

ORDER

The petitioner who is the accused in C.C.No.20 of 2016, on the file of the learned Judicial Magistrate, Thiruvaiyar has filed this revision case, challenging the conviction and sentence imposed against him for the offence under Section 304 A of IPC, which was confirmed in Crl.A.No.113 of 2022, on the file of the Principal District Judge, Thanjavur.

2. The petitioner is said to have committed the offence under Section 304 A of IPC with the allegation that on 15.05.2016 at about 11.00 a.m., when the deceased Saratha was proceeding from south to north direction in Thirukattupalli to Bhuthaloor main road, after purchasing vegetable, the accused drove his two wheeler bearing registration No.TN-48-U-7824 in a rash and negligent manner and dashed Saratha with the result, Saratha sustained grievous injuries all over her body. When she was taken to the hospital, she was declared as dead. Thereafter, P.W.2 made a complaint to the respondent police and the same was registered in Crime No.113 of 2016 for the offence punishable under Section 304



Crl.R.C.(MD).No.755 of 2023

A of IPC. Then, the investigating officer completed the investigation by collecting the material and filed the final report before the learned Judicial Magistrate. The learned Judicial Magistrate has taken the case on file in C.C.No. 77 of 2016.

3. In order to prove the charges, the prosecution examined P.W.1 to P.W. 10, exhibited Ex.P.1 to Ex.P.12. Thereafter, the learned trial Judge put the incriminating circumstances under Section 313 Cr.P.C., and the accused denied the case as false and he did not examine anybody. Therefore, the learned trial Judge, completed the trial by passing the impugned judgments in C.C.No.77 of 2016 dated 01.12.2022.

4. The learned trial Judge, considering the evidence of P.W.3, P.W.4, P.W.5 and P.W.6 gave a finding that the petitioner drove his vehicle in a rash and negligent manner and caused death of the deceased/Saratha, the grand-mother of P.W.2 and the mother of P.W.1. The said finding also was confirmed by the learned appellate judge.



Crl.R.C.(MD).No.755 of 2023

5. The learned counsel for the petitioner submitted that in the evidence of P.W.2, P.W.3, P.W.4, P.W.5 and P.W.6 all stated that only on hearing the noise only, they went to the spot. Even according to the prosecution they had only seen the accused/petitioner, escaping from the scene of occurrence after leaving his vehicle. In the said circumstances, they cannot be treated as eye witnesses and hence, the conviction and sentence imposed by both the Courts below is perverse and seek for setting aside the concurrent finding rendered by the Courts below.

6. The learned Public Prosecutor submitted that the said submission of the learned counsel for the petitioner is not correct. P.W.2 is the grand-child of the victim, who had clearly deposed before the Court below that the petitioner drove his vehicle in a rash and negligent manner and dashed the deceased. Immediately, P.W.2 informed the same to P.W.1. After the information, P.W.2 had taken the deceased to hospital. The said occurrence was witnessed by P.W.3 and P.W.4 being the independent witnesses, standing nearer to the occurrence place. Even assuming that they had seen the occurrence after hearing the noise, they clearly spoke about the deceased in the occurrence place and the petitioner leaving his two wheeler immediately after the accident. Hence, the evidence is admissible under Section 6 of the Indian Evidence Act, on the principle of



Crl.R.C.(MD).No.755 of 2023

res gestae. Therefore, the prosecution clearly proved the rash and negligent act on the part of the petitioner. Further, the learned Public Prosecutor submitted that the manner of the accident spoken by the witnesses are also admissible under the principle of *res ipsa loquitor*. The learned Public Prosecutor submitted that the accused after hitting the deceased left the place, leaving his vehicle without saving the life of the deceased which clearly proved that he responsible for the accident. In the said circumstances, the prosecution has clearly proved the case and the conviction and sentence passed by both the Courts below is in accordance with law.

7. This Court has considered the rival submissions made by the learned counsel as well as the learned Additional Public Prosecutor appearing on either side and perused the materials available on record and also considered the precedents relied upon by them.

8. P.W.2 is the son of the deceased Saratha. When he was returning to his house, P.W.3 informed that the petitioner drove his vehicle in a rash and negligent manner and dashed against Saratha. Hence, he gave the complaint before the respondent police under Ex.P2. P.W.3, clearly deposed that when he



Crl.R.C.(MD).No.755 of 2023

was returning to his house, the petitioner drove his two wheeler in a rash and negligent manner and dashed against the deceased. The said evidence of P.W.3 was in no way challenged by the defence, during his cross examination. The said evidence is clear and there is no reason to disbelieve his evidence. Further, P.W. 3, clearly stated that P.W.4, P.W.5 and P.W.6 had seen the deceased and the petitioner escaping from the scene of occurrence, by leaving his vehicle on the spot. Hence, as rightly argued by the learned Public Prosecutor, the said evidence is admissible under Section 6 of the Indian Evidence Act, on the principle of *resgestae*. This evidence is also corroborated with the evidence of P.W.3. In the said circumstances, both the Courts below clearly appreciated the evidence and came to conclusion that the petitioner caused death of the deceased by driving his vehicle in a rash and negligent manner. In this aspect, it is relevant to note the following judgment of the Hon'ble Supreme Court in the case of ***M.Senthilkumar Vs. P.Ramalingam*** reported in ***2016 (2) MLJ Crl 172***.

9. Therefore, from the above principle laid down by the Hon'ble Supreme Court, P.W.3 clearly deposed before the Court that the deceased had sustained injuries as a result of the act of the petitioner by hitting the deceased by driving his vehicle in a rash and negligent manner. P.W.4, P.W.5 and P.W.6 are the



Crl.R.C.(MD).No.755 of 2023

independent witnesses who clearly deposed about the presence of the accused in the scene of occurrence and his escaping from the scene of occurrence. It is clearly proved that the petitioner only caused the accident by hitting the victim, when there was no vehicle on the road, as per the sketch prepared by the investigating officer. Therefore, in all aspect, the prosecution clearly proved the case against the petitioner. Therefore, this Court has no reason to differ with the findings rendered by both the Courts below and also this Court considered the submission of the learned counsel for the petitioner.

10. It is relevant to note that the Hon'ble Supreme Court, in the case of ***M.Senthilkumar Vs. P.Ramalingam*** reported in ***2016 (2) MLJ Crl 172*** clearly stated that the finding of both the Courts below could not be interfered in the case of this nature. There is no perversity in appreciation of the evidence. The evidence adduced through P.W.4, P.W.5 and P.W.6 also show that the petitioner escaped from the occurrence place, immediately after the accident, was clearly proved the guilty mind of the petitioner causing the accident in a rash and negligent manner. Hence, the prosecution clearly proved the offence under Section 304 A of IPC against the petitioner.



Crl.R.C.(MD).No.755 of 2023

WEB COPY

11. Accordingly, this Criminal Revision Case stands dismissed.

Consequently, connected miscellaneous petitions are closed.

19.03.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sbm



WEB COPY



Crl.R.C.(MD).No.755 of 2023

K.K.RAMAKRISHNAN, J.

sbn

Pre-delivery Order made in

Crl.R.C(MD). No.755 of 2023

and

Crl.M.P(MD).Nos.10257 & 10258 of 2023

19.03.2024