



Crl.RC.No.541 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.RC.No.541 of 2024

Jeyaram

... Petitioner

Versus

The State Rep by,
The Sub-Inspector of Police,
V-5, Thirumangalam,
Traffic Investigation Wing,
Chennai.

... Respondent

PRAYER: Criminal Revision is filed under Sections 397 r/w 401 of the Criminal Procedure Code, 1973, against the judgment/order of conviction passed on 04.03.2024 by the learned XXI Additional Sessions Judge, Chennai made in C.A.No.748 of 2023, dated 04.03.2024 confirming the conviction and sentence of 6 months simple imprisonment imposed by the learned VI Metropolitan Magistrate, Egmore, Chennai in C.C.No.9272 of 2021, dated 03.11.2023 for offence under Section 304A IPC.

For Petitioner : Mr. G. Ravikumar

For Respondent : Mr. A. Gopinath,
Government Advocate (Crl.side)



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ORDER

WEB COPY This revision has been preferred against the judgement passed in Crl.A.No.748 of 2023 dated 04.03.2024 on the file of the XXI-Additional District and Sessions Judge, Chennai, thereby, confirming the order of conviction and sentence imposed by order dated 03.11.2023 passed in C.C.No.9272 of 2021, by the learned VI Metropolitan Magistrate, Egmore, Chennai, for the offence under Section 304(A) of the Indian Penal Code, (IPC), 1860.

2. The case of the prosecution was that on 28.09.2021, the petitioner/accused, while driving his motorcycle bearing Registration No.TN-12-Y-2361 in a rash and negligent manner, and hit the minor deceased, who was proceeding home from School on his bicycle. The victim sustained grievous injuries and died on the way to the hospital. On the basis of the complaint, a case in Crime No.188/TM-3/2021 was registered against the petitioner for the offence under Sections 279, 304A of IPC, on the same day. After completion of investigation, a final report was filed, which was taken cognizance in C.C.No.9272 of 2021 by the Trial Court. To substantiate the charges, on the side of the prosecution, P.W.1 to P.W.4 were examined and Ex.P1 to P11 documents were marked. On the side of the

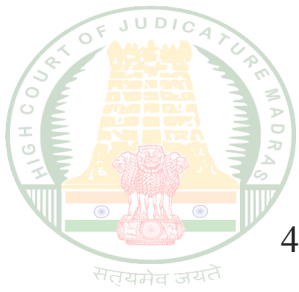


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accused, none of them was examined, and no documents were adduced. On perusal of the oral and documentary evidence, the Trial Court found the petitioner guilty of the offence under Sections 304(A) of IPC and sentenced him to undergo six months simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.748 of 2023, and the same was dismissed on 04.03.2024, confirming the order passed by the Trial Court. Hence, the present revision.

3. The learned counsel for the petitioner submitted that the prosecution case suffers from material contradictions. Though P.W.1 was cited as an eye-witness, he did not confirm that the petitioner was driving the motorcycle in a rash and negligent manner. The specific defence of the petitioner was that the deceased himself lost his balance while riding his bicycle and fell towards the right side, which resulted the accident. It is further contended that the occurrence took place in a service road where the speed of vehicle was not high. However, unfortunately, the Courts below without considering the facts and circumstances of the case, had concurrently held as against the petitioner.



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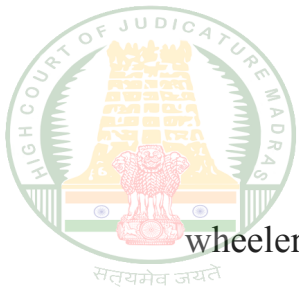
4. Per contra, the learned Government Advocate (Criminal Side)

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appearing for the respondent submitted that P.W.2, one of the eye-witnesses, had categorically deposed that the petitioner drove the vehicle in rash and negligent manner. Though, the accident happened in the service road, the petitioner drove the vehicle in a rash and negligent manner and overtook another two-wheeler going in front the petitioner's vehicle. The Motor Vehicle Inspector's report also revealed that the accident was not happened due to any mechanical defect. Thus, the prosecution has proved the case beyond reasonable doubt and the Trial Court as well as the Appellate Court has rightly convicted the petitioner. Hence, the findings of the Courts below does not warrant any interference of this Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent, and also perused the materials available on record.

6. The petitioner was originally charged for the offence under Sections 279 and 304(A) of IPC. However, the Trial Court, while acquitting him of the offence under Section 279 of IPC. Admittedly, P.W.1 and P.W.2, who are cited as eye-witnesses, have stated that they were riding their two-



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wheeler ahead of the petitioner's motorcycle. However, P.W.2 had deposed that the petitioner drove his motorbike in a rash and negligent manner and hit the deceased's bicycle, which was proceeding in front of their vehicle.

7. On perusal of the rough sketch/Ex.P3, it shows that both the motorcycle of the petitioner and the two-wheeler of the eye-witnesses were behind the deceased's bicycle. Further, the sketch reveals that all the vehicles were in the middle of the service road, which measures only 13 sq.ft width. In such narrow circumstances, there is no possibility to drive the vehicles in a rash and negligent manner.

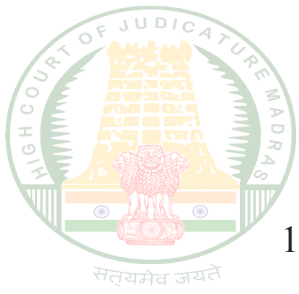
8. The specific defence taken by the petitioner was that the deceased lost his control while riding his bicycle, fell down on the right side, and in that process came into contact with the petitioner's motorcycle which was plying behind the bicycle. Even assuming that the petitioner's motorcycle came into contact with the bicycle, such contact was due to the sudden fall of the deceased, leaving no time for the petitioner to apply brakes and dashed against the deceased. Significantly, the prosecution has also failed to produce the proof that the alleged vehicle which was driven by the petitioner hit the bicycle. The motorcycle of the petitioner was subjected



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to the Motor Vehicle Inspection. The Inspection report shows that the accident was not happened due to any mechanical defect, but, the accident was happened due to the negligence on the part the deceased as well as the petitioner. Since there is no possibility of speedy driving and has no possibility of hitting the deceased's bicycle by the petitioner on the service road, the findings of the Trial Court as well as the Appellate Court are perverse and cannot be sustained.

9. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court and the Appellate Court failed to properly appreciate the infirmities in the prosecution case. Therefore, the conviction and sentence awarded by the trial Court in respect of all the charges against the petitioner and confirmed by the Appellate Court cannot be sustained and are liable to be set aside.



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10. In view of the above, the Judgement dated 04.03.2024 passed in

WEB C.A.No.748 of 2023 on the file of the learned XXI Additional Sessions

Judge, Chennai, confirming the conviction and sentence imposed by the

Trial Court in C.C.No.9272 of 2021 dated 03.11.2023 on the file of the

learned VI Metropolitan Magistrate, Egmore, Chennai, is hereby set aside.

The petitioner/accused is acquitted from the charge under Section 304(A) of IPC.

11. The petitioner/accused is directed to be set at liberty forthwith, unless his custody is otherwise required in connection with any other case.

The fine amount, if any paid, shall be refunded to the appellant forthwith.

The bail bond, if any executed, shall stand cancelled.

12. In the result, this Criminal Revision Case stands allowed.

06.08.2025

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G.K.ILANTHIRAIYAN, J.

klt

To

- 1.The XXI Additional Sessions Judge, Chennai.
- 2.The VI Metropolitan Magistrate, Egmore, Chennai.
- 3.The Sub-Inspector of Police, V-5, Thirumangalam,
Traffic Investigation Wing, Chennai.
- 4.The Public Prosecutor, High Court of Madras, Chennai.

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