



Crl.R.C.No.513 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.513 of 2022

Mohan

... Petitioner

Versus

State rep. by
The Inspector of Police,
Krishnapuram Police Station,
Dharmapuri District.
(Crime No.332/2017)

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w. 401 Cr.P.C. to set aside the judgment of the Principal Sessions Judge, Dharmapuri made in Crl.A.No.5 of 2019 dated 09.08.2021 and sentence was confirmed against the petitioner in C.C.No.95 of 2018 dated 10.01.2019 on the file of the Chief Judicial Magistrate, Dharmapuri.

For Petitioner : Mr.M.Jayachandran

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)



CrI.R.C.No.513 of 2022

WEB COPY

ORDER

The petitioner/accused was convicted by the learned Chief Judicial Magistrate, Dharmapuri in C.C.No.95 of 2018 by judgment dated 10.01.2019 and sentenced to undergo two years simple imprisonment for the offence under Section 304(A) IPC. Aggrieved against the same, the petitioner preferred an appeal before the Sessions Court in C.A.No.5 of 2019. The learned Principal District Judge, Dharmapuri, by judgment dated 09.08.2021, dismissed the appeal confirming the conviction of the Trial Court but modified the sentenced from two years simple imprisonment to six months simple imprisonment. Against which, the present revision is filed.

2.The gist of the case is that on 31.12.2017 at about 3.15 p.m., one Chinnapappa of Seerampatty Village, Krishnapuram Taluk went to a Petty shop to purchase betel leaves and nut. After purchase, she returned back to her home by walking in the mud road, at that time, a two wheeler Hero Honda Splendor bearing registration No.TN-29-AE-8272 driven by the petitioner in a rash and negligent manner dashed against the said Chinnapappa and she was dragged for some distance, in which, she



sustained injuries and fracture on her left leg and left hand. She was taken to the Government Hospital, Dharmapuri in 108 Ambulance where the Doctor declared her dead. Thereafter, P.W.1 lodged a complaint to P.W.15/Sub-Inspector of Police who registered FIR/Ex.P5. P.W.16 took up the investigation, visited the scene of occurrence, prepared observation mahazar and rough sketch, recorded the statement of witnesses present in the scene of occurrence, conducted inquest, sent the body for Postmortem and the two wheeler to the Motor Vehicle Inspector for inspection. After receipt of Postmortem certificate/Ex.P3 and Motor Vehicle Inspection report/Ex.P4, charge sheet filed. During trial, P.W.1 to P.W.16 examined and Ex.P1 to Ex.P8 marked on the side of the prosecution and on the side of the defence, no witness examined and no documents marked. The Trial Court on conclusion of trial convicted the petitioner and sentenced him to undergo two years simple imprisonment which the Lower Appellate Court modified and reduced to six months simple imprisonment. Against which, the present revision filed.

3.The contention of the learned counsel for the petitioner is that the deceased Chinnapappa who was having hearing impairment crossed the road



without noticing the vehicle and despite honking of horns, she failed to move away from the path, thereby she contributed to the accident. He would submit that in this case the petitioner, who is the rider of the two wheeler, sustained serious injuries. Further, the projected eye witnesses not stated anything about the injuries sustained by the petitioner in the earlier statement and hence, their presence becomes doubtful. P.W.1/complainant, who is the son of the deceased, admits that he has not seen the accident. He would further submit that P.W.2 to P.W.5, who are the projected eye witnesses, are closely related to the deceased. The evidence of P.W.2 to P.W.5 are contradictory to each other which would confirm that they were not present in the scene of occurrence. P.W.10 and P.W.11 are the witnesses for observation mahazar and rough sketch. P.W.10 states that he had signed the observation mahazar along with one Ramu and P.W.11, who is the other witness admits that he signed the observation mahazar on the request of the Police and he does not know anything about the observation mahazar and rough sketch. The other witnesses, P.W.6 to P.W.9 are in the nature of hearsay witnesses. P.W.13/Motor Vehicle Inspector admits that 5½ months after the accident he inspected the vehicle, that to, in a stationary condition. He further submitted that none of the witnesses identified the vehicle with its



registration number. Hence, both the Courts below ought not to have convicted the petitioner.

4.The learned Government Advocate (Crl. Side) on the other hand submitted that in this case, P.W.2 to P.W.5 are the eye witnesses, P.W.1 and P.W.6 to P.W.9 are the hearsay witnesses. P.W.10 and P.W.11 are the witnesses for observation mahazar and rough sketch, who state about the preparation of observation mahazar. It has not been suggested to P.W.10 and P.W.11 that observation mahazar and rough sketch were not prepared in their presence and about one Ramu. P.W.13/Motor Vehicle Inspector who inspected the vehicle had given a report/Ex.P4 stating that front both forks bend, head light mounting bracket broken and mask scratched, front both indicator broken and handle bar bend and suggested that the rider of the vehicle dashed with speed and momentum. He further submitted that in this case, the petitioner had driven the vehicle without driving licence. Further referring to Postmortem certificate, the learned Government Advocate (Crl. Side) submitted that abrasions are present on the forehead, left cheek, left side of the chin, left forearm and fracture in the left leg, left arm and of the sternum would confirm that the two wheeler was driven with high speed in a



rash and negligent manner and dragged the victim to some feet as confirmed by the eye witnesses. He would submit that in the complaint/Ex.P1, the presence of eye witnesses recorded and the registration number of the two wheeler also mentioned. The petitioner who sustained injury took treatment and later, he voluntarily surrendered before P.W.16 on 02.04.2018, thereafter the vehicle was produced for inspection on 25.04.2018 and hence, there was a delay which was the contribution of the petitioner. He further submitted that the rough sketch/Ex.P6 confirms that the victim was near the Nagaraj Petty Shop which is in the mud road and away from the thar road, which would confirm that the petitioner had driven the two wheeler in a rash and negligent manner and caused the accident. Therefore, the Trial Court had rightly convicted and sentenced the petitioner for two years but the Lower Appellate Court reduced the sentence from two years to six months. He fairly submitted that no appeal was filed against the modification of period of sentence.

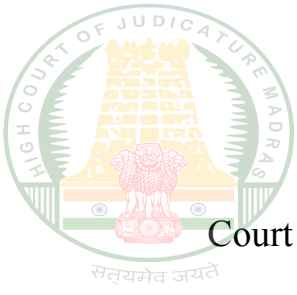
5.Considering the submissions made and on perusal of the materials, it is seen that in this case, P.W.1 who is the son of the Chinnapappa was informed by P.W.2 on 31.12.2017 at about 3.15 p.m. that his mother



sustained injury due to the rash and negligent driving of the petitioner.

WEB COPY

Immediately P.W.1 reaches the spot, took his injured mother to the Government Hospital, Dharmapuri in 108 Ambulance along with P.W.2 to P.W.4 where she was pronounced dead. P.W.1 in his complaint/Ex.P1 clearly stated about the information received through P.W.2, the presence of eye witnesses P.W.2 to P.W.5 in the accident spot and also the registration number of the two wheeler. It is also seen that in this case the rider of the two wheeler got injured but no explanation was given by the rider. The Motor Vehicle Inspector inspected the vehicle and found that the accident was not due to any mechanical fault. P.W.12/Postmortem Doctor confirms the injuries which are in conformity to the ocular evidence. Further the injuries sustained by the deceased would clearly confirm that she was dragged for some distance and she also sustained fracture on her hands, legs and sternum which would confirm the speed of the vehicle and the impact of the accident which would clearly prove that the petitioner had driven the two wheeler in a rash and negligent manner and caused the accident who was standing on the mud road. Hence, this Court is of the view that both the Courts below had rightly convicted the petitioner. In view of the same, this Court finds no reason to interfere with the judgment passed by the Trial



Crl.R.C.No.513 of 2022

Court which was confirmed by the Lower Appellate Court by reducing the period of sentence.

6. Accordingly, the Criminal Revision Case stands dismissed. The Trial Court is directed to secure the petitioner for sufferance of the remaining period of sentence.

11.03.2025

Index : Yes/No

Neutral citation: Yes/No

Speaking order/Non-speaking order
cse



Crl.R.C.No.513 of 2022

WEB COPY

To

- 1.The Inspector of Police,
Krishnapuram Police Station,
Dharmapuri District.
- 2.The Principal Sessions Judge,
Dharmapuri.
- 3.The Chief Judicial Magistrate,
Dharmapuri.
- 4.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.R.C.No.513 of 2022

M.NIRMAL KUMAR, J.

cse

Crl.R.C.No.513 of 2022

11.03.2025