



CRL.RC.No.654 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.RC.No.654 of 2023 and
CrI.MP.No.4984 of 2023

K.Karthick

... Petitioner

Versus

The State
Represented by the Inspector of Police
Mangalam Police Station,
Tiruppur District
crime No.302 of 2019

...

Respondent

PRAYER: Criminal Revision has been filed under Sections 397 and 401 of the Code of Criminal Procedure praying to set aside the judgment and conviction dated 09.02.2023 made in CA.No.74 of 2022 (On the file of the Principal Sessions Judge, Tiruppur) and confirming the judgment and conviction dated 08.06.2022 made in CC.No.677 of 2019 (on the file of the Judicial Magistrate No.IV, Tiruppur).

For Petitioner : Ms.Amala Ananthi
for Mr.C.S.Saravanan

For Respondent : Mr.A.Gopinath,



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Government Advocate(crl.side)

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ORDER

This criminal revision has been preferred against the judgment passed in CA.No.74 of 2022 dated 09.02.2023 on the file of the Principal Sessions Judge, Tiruppur thereby confirmed the conviction and sentence imposed by the trial court in CC.No.677 of 2019 on the file of the Judicial Magistrate No.IV, Tiruppur for the offence punishable under Sections 279 of and 304A of IPC.

2. The case of the prosecution is that on 20.07.2019 at about 21.30 hrs. in Iduvai, Seeranampalayam Road near to Iduvai Saravana Provision Store, when the deceased was going from north to south along with PW1 on the extreme left hand side of the road in the mud path, the petitioner had driven his motorcycle in a rash and negligent manner and dashed from behind the deceased. Due to the said impact, the deceased was thrown out and sustained grievous injuries. Immediately, he was taken to hospital and on the next day i.e. 21.07.2019, he died due to impact of the injuries sustained during the accident.

3. On the side of the prosecution, they had examined PW1 to PW10



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and marked Ex.P1 to Ex.P10. On the side of the petitioner, no one was examined and no documents were marked. On the basis of the oral and documentary evidence, the trial court found the petitioner guilty for the offences punishable under Sections 279 and 304A of IPC and sentenced him to undergo simple imprisonment for a period of three months with fine. Aggrieved by the same, the petitioner preferred appeal and the same was dismissed and confirmed the conviction and sentence imposed by the trial court.

4. Heard, the learned counsel appearing on either side and perused the records produced before this Court.

5. On perusal of records revealed that PW1 is the complainant. PW2 and PW8 are the eye witnesses to the occurrence. PW6 and PW7 were examined as Mahazar Witnesses. However, PW2 and PW8 turned hostile. Mahazar Witnesses i.e. PW6 and PW7 also turned hostile. Except PW1, no one has spoken about the accident. According to PW1, he along with the deceased, while waking on the left hand side of the road, that too in the mud path from north to south, the petitioner came from behind the deceased and dashed



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against him by his two wheeler. Therefore, he sustained grievous injuries and

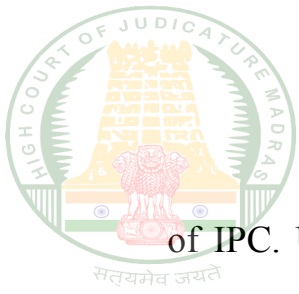
WEB COPY died. Whereas on perusal of rough sketch which was marked as Ex.P5,

revealed that the accident took place in the main road and not in the mud road.

That apart, in order to corroborate the evidence of PW1, no one was examined by the prosecution. Though PW2 and PW8 were the eye witnesses to the occurrence, they turned hostile and did not support the case of the prosecution.

That apart, Mahazar Witnesses also did not support the case of the prosecution to prove the place of the occurrence. The trial court convicted the petitioner based on the evidence of PW1 alone.

6. Admittedly, PW1 and the deceased were walking on the road from north to south and the petitioner's vehicle dashed against the deceased, due to which he sustained injuries and died. Therefore, there was no chance for PW1 to note down whether the petitioner had driven his motorcycle in a rash and negligent manner or not. Though PW1 deposed that they were walking in the mud path of the road, it is not corroborated by any of the oral or material evidences of the prosecution. Therefore, the prosecution failed to prove that the petitioner had driven his motorcycle in a rash and negligent manner and hit the deceased on his backside. When it being so, it would not be proper to convict the petitioner for the offence punishable under Sections 279 and 304A



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of IPC. Unfortunately, the trial court as well as the appellate court failed to

note that the prosecution failed to prove that the petitioner had driven his vehicle in a rash and negligent manner and hit the deceased on his backside.

7. In view of the above, the conviction and sentenced imposed by the trial court, which were confirmed by the appellate court, cannot be sustained. As such, the impugned judgments are liable to be set aside. Accordingly, this criminal revision stands allowed and the judgment dated 09.02.2023 passed in CA.No.74 of 2022 on the file of the Principal Sessions Judge, Tiruppur and the judgment dated 08.06.2022 passed in CC.No.677 of 2019 on the file of the learned Judicial Magistrate No.IV, Tiruppur are set aside and the petitioner is acquitted from all the charges under Sections 279 and 304(A) of IPC. The bail bond, if any executed by the petitioner, shall stand cancelled. Fine amount, if any paid, shall be refunded to the petitioner forthwith. Consequently, connected miscellaneous petition is closed.

03.06.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J,

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To

- 1.The Principal Sessions Judge, Tiruppur
- 2.The Judicial Magistrate No.IV, Tiruppur
- 3.Inspector of Police
Mangalam Police Station,
Tiruppur District
- 4.The Public Prosecutor,
High Court of Madras

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