



Crl.A.No.679 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2025

CORAM:

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

Crl.A.No.679 of 2023

Lurdhusamy

... Appellant

Vs.

Inspector of Police,
J-2, Adyar Traffic Investigation,
Chennai
crime No.197/AM3/2013

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C.,
praying to set aside the judgment dated 28.02.2023 in SC.No.157 of 2017
on the file of the III Additional Sessions Court, Chennai.

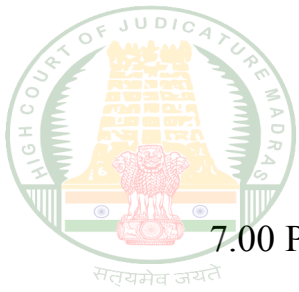
For Appellant : Mr.M.Shreedhar

For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor

JUDGMENT

This criminal appeal has been filed against the judgment dated 28.02.2023 passed in SC.No.157 of 2017 on the file of the III Additional Sessions Court, Chennai, thereby convicted the appellant for the offence punishable under Sections 279 & 304A of IPC.

2. The case of the prosecution was that on 25.03.2013, at about



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7.00 PM, when the accused was riding his motorcycle in a drunken mood at the junction of Santhome Service Road and South Canal Bank Road from west to east direction in a rash and negligent manner and dashed against the deceased motorcycle which was coming at Santhome High Road from North to South direction and turned towards west direction to go to South Canal Road. Therefore, the deceased sustained grievous injuries and on the way to hospital, he died. On the complaint, FIR was registered in Crime No.197/AM3/2013 for the offences punishable under Sections 279, 304(ii) of IPC and Section 185 of Motor Vehicles Act. After completion of investigation, final report was filed and the same was taken cognizance by the trial court.

3. In order to bring the charges to home, the prosecution had examined PW1 to PW8 and marked Ex.P1 to Ex.P11. On the side of the accused, no one was examined and no documents were marked. On perusal of oral and documentary evidences, the trial court found the appellant guilty for the offence punishable under Sections 279 of IPC and 304A of IPC. He was sentenced to undergo three months simple imprisonment for the offence punishable under Section 279 of IPC. He was also sentenced to undergo six months simple imprisonment for the

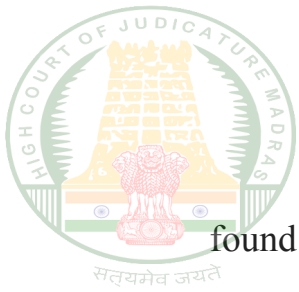


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offence punishable under Section 304A of IPC with fine of Rs.1,000/-, in default to undergo one month simple imprisonment. Aggrieved by the said conviction and sentence, this criminal appeal has been filed by the accused.

4. Heard, the learned counsel appearing on either side and perused, all the materials placed before this Court.

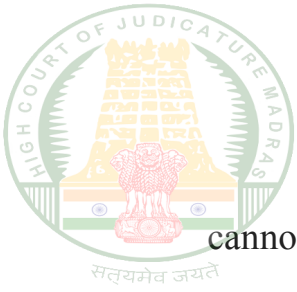
5. On perusal of the records, it is revealed that both the appellant as well as the deceased had head on collision, due to which both sustained injuries. One of the eye witnesses, who is a friend of the deceased, deposed as PW1. On perusal of the evidence of PW1, it is revealed that he was riding his motorcycle just behind the deceased motorcycle. At that juncture, the appellant had driven his motorcycle from the opposite side and both dashed against each other. Therefore, both sustained injuries and both were taken to hospital by ambulance. Unfortunately, on the way to hospital, his friend died. He did not whisper that the appellant drove his bike in a rash and negligent manner. The brother of the deceased was examined as PW2. He was informed about the occurrence and immediately, he rushed to the place of occurrence. He



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found that both the deceased as well as the appellant sustained injuries and both were taken to hospital by ambulance. Therefore, except PW1, no one had seen the occurrence and even according to PW1, there was no evidence to show that the appellant had driven his motorcycle in a rash and negligent manner.

6. Though the respondent registered FIR for the offence punishable under Section 304(ii) of IPC alleging that the appellant drove his motorcycle in a drunken mood, it was not proved by the prosecution. The appellant also sustained injury and he was taken to hospital. The medical officer recorded the accident register and the same was marked as Ex.P4. On perusal of Ex.P4, it is revealed that there is no evidence to show that the appellant had driven his motorcycle under the influence of alcohol. Further, he also sustained grievous injuries. The motorcycle of the appellant was subjected for motor vehicle inspection and the report was marked as Ex.P5. It reveals that the accident did not happen due to any mechanical defect. Therefore, the prosecution failed to prove that the accident occurred due to rash and negligent driving of the appellant herein. In fact, it was head on collision and both negligently drove their vehicles and dashed against each other. Hence, the entire negligence



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cannot be foisted against the appellant. As such, the impugned judgment

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7. Accordingly, the judgment dated 28.02.2023 passed in SC.No.157 of 2017 on the file of the III Additional Sessions Court, Chennai, is set aside and this criminal appeal stands allowed. The appellant is acquitted of all the charges for the offences punishable under Sections 279 & 304A of IPC. The bail bond, if any executed by the appellant, shall stand cancelled. Fine amount, if any paid, shall be refunded to the appellant forthwith.

14.08.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.



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To

- 1.The III Additional Sessions Court, Chennai
- 2.Inspector of Police,
J-2, Adyar Traffic Investigation,
Chennai
- 3.The Public Prosecutor,
High Court of Madras

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