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Crl.R.C.No.839 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.839 of 2022

M.Govindaraj

... Petitioner

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Sulur Police Station,
Coimbatore District.
Crime No.519 of 2015.

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w. 401 of Code of Criminal Procedure to set aside the judgment passed by the learned Judicial Magistrate, Sulur, Coimbatore in C.C.No.113 of 2017 dated 21.03.2018 as confirmed by the Judgment of the V Additional District and Sessions Judge, Coimbatore in C.A.No.137 of 2018 dated 04.10.2019.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)
Assisted by Ms.M.Sumai Arnica



Crl.R.C.No.839 of 2022

ORDER

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The petitioner/accused was convicted by the learned Judicial Magistrate, Sulur, Coimbatore in C.C.No.113 of 2017 by judgment dated 21.03.2018 and sentenced to pay a fine of Rs.500/-, in default to undergo one week simple imprisonment for the offence under Section 279 IPC, to pay a fine of Rs.500/-, in default to undergo one week simple imprisonment for the offence under Section 338 IPC and to undergo one year simple imprisonment for the offence under Section 304(A) IPC and to pay a fine of Rs.5,000/-, in default to undergo three months simple imprisonment. Aggrieved against the same, the petitioner preferred an appeal before the Sessions Court in C.A.No.137 of 2018. The learned V Additional District and Sessions Judge, Coimbatore dismissed the appeal confirming the conviction and sentence of the Trial Court by judgment dated 04.10.2019. Against which, the present revision is filed.

2.The case of the prosecution is that on 29.07.2015 at about 8.15 p.m., the petitioner was driving his Tata Sumo TN-41-R-4830 coming from Dasanaickenpalayam, took a right turn without any indication or honking of



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horn, entered the Pollachi-Avinashi main road, at that time, P.W.6, who was riding his two wheeler Apache TN-78-W-1321 lost his balance dashed to the right side of the Sumo and P.W.6 along with the pillion rider Gurusamy fell down, got hit to the water tank platform, became unconscious. P.W.1/brother of P.W.6 following P.W.6 50 feet behind, saw the accident and took both the injured, P.W.6 and the pillion rider Gurusamy, to Palladam Government Hospital and thereafter to Government Hospital, Coimbatore. The said Gurusamy died the next day. P.W.6 got admitted in Muthus Hospital, Coimbatore for further treatment. P.W.1 lodged a complaint to the Sub-Inspector of Police, who received the complaint and registered FIR in Crime No.519 of 2015 for the offence under Sections 279, 337 and 304(A) IPC. Thereafter, P.W.8 took up investigation, visited the scene of occurrence, prepared observation mahazar and rough sketch, enquired the witnesses in the scene of occurrence, conducted inquest on the body of the said Gurusamy and sent the body for postmortem. The accused was arrested and the vehicles, both Tata Sumo and the two wheeler were sent for motor vehicle inspection. On collection of postmortem certificate, medical records of P.W.6 and motor vehicle inspection reports, charge sheet filed. During Trial, P.W.1 to P.W.8 examined and Ex.P1 to Ex.P10 marked on the side of



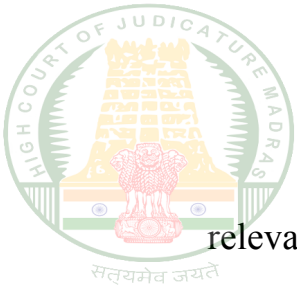
the prosecution. On the side of the defence, no witness examined and no documents marked. On conclusion of trial, the Trial Court convicted the petitioner as stated above, confirmed by the Lower Appellate Court.

3.The contention of the learned counsel for the petitioner is that the accident took place due to the negligence of P.W.6, who had rode the bike in a rash and negligent manner, dashed into Tata Sumo driven by the petitioner. It is a four road junction. P.W.6 was riding in the Pollachi-Avinashi main road proceeding to Tiruppur, the petitioner was driving Tata Sumo coming from Dasanaickenpalayam and entered the main road, on seeing P.W.6 riding the bike in a rash and negligent manner, the petitioner stopped his vehicle immediately. P.W.6 unable to control his bike dashed on the Tata Sumo, P.W.6 and the pillion rider fell down and sustained injuries hitting the water tank platform, since P.W.6 was wearing helmet the impact of injuries was less and the pillion rider Gurusamy travelled without helmet sustained injuries to his skull and succumbed to the injuries. P.W.1, who was coming behind P.W.6 in another bike admit that his brother/P.W.6 was unable to control his vehicle and dashed on the Tata Sumo, for which the petitioner cannot be held responsible. P.W.2, who is the pillion rider to P.W.1, also



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confirms that it was P.W.6 who caused the accident because of his rashness and negligence. P.W.6 himself states that his right hand came in contact with Tata Sumo vehicle and he lost his balance, fell down, sustained injuries by hitting the water tank platform. Both P.W.6 and Gurusamy rushed to the Hospital, P.W.6 recovered from the injuries but the pillion rider succumbed to injuries. The rough sketch/Ex.P4 confirm that the Tata Sumo vehicle stopped at the entrance of main road on seeing the bike coming in an uncontrolled manner. The entire accident caused due to the rash and negligent riding of P.W.6 and not by the petitioner. In this case, though the accident occurred in a public place where there are shops and business establishments, no public examined. P.W.1 agrees that since it is a night time, honking of horns is not required and it is only the indication has to be given. In this case, the petitioner switched on his head light and he has also given indication to turn right, it is only due to rash driving of P.W.6, the accident took place. Further, in this case majority of the documents, namely, rough sketch/Ex.P4, wound certificate/Ex.P5, inquest report/Ex.P6, motor vehicle inspection reports/Ex.P7 and Ex.P8 and postmortem certificate/Ex.P9 all marked through Investigating Officer/P.W.8 and not through the respective witnesses, no reason given for non-examination of the



relevant witness and the documents not proved in the manner known to law

which fact not considered by both the Courts below.

4.In support of his contention, the learned counsel for the petitioner relied on the decision of this Court in the case of ***B.Karthik vs. State by Inspector of Police, Coonoor Town Police Station, The Nilgiris District*** reported in ***2022 (3) MWN(Crl.) 250***, wherein this Court submitted that three conditions are imperative to convict a person for a rash and negligent driving and causing accident, which are as follows:

- (1) All the circumstances, including the objective circumstances constituting the accident, from which the inference of guilty is to be drawn, must be firmly established.
- (2) Those circumstances must be determinative tendency pointing unerringly towards the guilt of the accused, and
- (3) The circumstances should make the chain so complete that they cannot reasonable raise any other hypothesis save that of the accused's guilt.



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5.The learned Government Advocate (Crl. Side) submits that on the complaint of P.W.1, case registered and P.W.8 took up investigation. P.W.1 along with P.W.2 were coming in a motor bike following P.W.6/brother of P.W.1 and the deceased Gurusamy. The petitioner coming from the side road, entering the main road ought to have waited for the vehicle in the main road to pass by and thereafter, to have taken right turn but the petitioner in a rash and negligent manner suddenly turned the vehicle to the right side which caused the accident., P.W.6 admits that he could see the Tata Sumo vehicle coming to the main road just 3 feet before and he took all steps to avoid hitting the Tata Sumo but unable to do so, dashed into the Tata Sumo vehicle, both rider and pillion rider sustained injuries.. After the accident, both P.W.6 and the pillion rider Gurusamy rushed to the Hospital in 108 Ambulance to Palladam Government Hospital and thereafter to the Government Hospital, Coimbatore where the pillion rider Gurusamy died on the next day. P.W.6 took treatment in Muthus Hospital, Coimbatore recovered from the injuries. P.W.8 conducted inquest and sent the body of Gurusamy for postmortem. Both vehicles, Tata Sumo and the two wheeler sent to motor vehicle inspection. P.W.6 underwent surgery, took treatment as inpatient and medical reports for the treatment collected and on collection



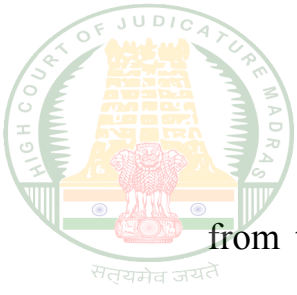
of all reports, charge sheet filed. During trial, P.W.1 to P.W8 examined and Ex.P1 to Ex.P10 marked. The Trial Court on the available materials and evidences rightly convicted the petitioner, confirmed by the Lower Appellate Court. Hence, prayed for dismissal.

6.Considering the submissions made and on perusal of the materials, it is seen that the petitioner was coming from the side road from Dasanaickenpalayam and was entering Pollachi-Avinashi main road. P.W.1 and P.W.2 were coming in a bike following P.W.6 and Gurusamy who were proceeding ahead in a bike, all were returning after visiting the temple and were proceeding towards Tiruppur. The petitioner turned his Tata Sumo vehicle to the right and stopped the vehicle on seeing P.W.6 coming with high speed. In this case, admittedly the petitioner stopped his Tata Sumo vehicle and was not moving. P.W.1 confirms that his brother was unable to control his vehicle and dashed into the Tata Sumo vehicle which is confirmed by P.W.2/pillion rider of P.W.1. P.W.6's evidence is that his right hand came in contact with Tata Sumo, he lost his balance, fell down and got dragged. In the process, he sustained injuries by hitting the water tank platform and since he was wearing helmet, injuries to his skull was not



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that serious. The pillion rider hitting the water tank platform sustained serious injuries since he was not wearing helmet. Unfortunately, the pillion rider died and P.W.6 saved. But from the evidence, it is clear that it is the two wheeler dashed into the Tata Sumo which was entering the main road and it is not the case that Tata Sumo entered the main road in dark during night hours without any light. Further, the Tata Sumo vehicle was stopped entering the main road as could be seen from the rough sketch. From the evidence of P.W.1, P.W.2 and P.W.6, it is seen that P.W.6 had driven the two wheeler, with high speed in a rash and negligent manner, caused the accident on the standing Tata Sumo vehicle. The Motor vehicle inspection report of Tata Sumo confirms that there is a dent to the right front side door, front window glass broken and the right rear view mirror broken confirms that the Tata Sumo vehicle not crossed the main road not moving and it was only entering the main road and was stationed. P.W.6 admits that it is four road junction and vehicles to be driven with relative speed with caution. Had the same been followed, the accident would not have occurred. P.W.1 confirms that his brother was unable to control his vehicle since he was coming in a high speed. Thus, the accident is not on the rashness and negligence of the petitioner which both Courts failed to consider. Further,



Crl.R.C.No.839 of 2022

from the evidence, it is seen that the conditions stipulated in the decision referred to by the learned counsel for the petitioner not proved. In view of the above, this Court finds that the conviction and sentence imposed on the petitioner by the Trial Court, confirmed by the Lower Appellate Court not sustainable.

7. Accordingly, the judgment rendered by the learned Judicial Magistrate, Sulur, Coimbatore in C.C.No.113 of 2017 dated 21.03.2018, confirmed by the learned V Additional District and Sessions Judge, Coimbatore in C.A.No.137 of 2018 dated 04.10.2019 both set aside. The petitioner is acquitted from all the charges levelled against him.

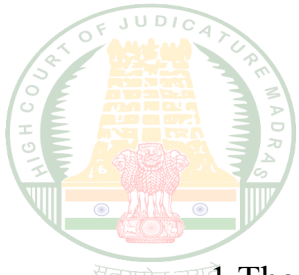
8. In the result, the Criminal Revision Petition stands allowed.

28.03.2025

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
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To

10/12



Crl.R.C.No.839 of 2022

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1.The Inspector of Police,
Sulur Police Station,
Coimbatore District.

2.The Judicial Magistrate,
Sulur, Coimbatore.

3.The V Additional District and Sessions Judge,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.



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CrI.R.C.No.839 of 2022

M.NIRMAL KUMAR, J.

cse

CrI.R.C.No.839 of 2022

28.03.2025