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CRL RC No. 919 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-06-2025

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL RC No. 919 of 2023

SELVAM
S/o.Natarajan,
No.6/227, MMDA Colony,
Madhuravayil, Chennai - 95.

Petitioner(s)

Vs

State represented by
The Inspector of Police,
V-5, Thirumangalam Traffic Investigation,
Chennai.

Respondent(s)

Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to set aside the judgment dated 07.02.2023 passed in C.A.No.55 of 2022 on the file of the XVII Additional Sessions Court, Chennai, confirming the judgment dated 03.03.2022 passed in C.C.No.1881 of 2017 on the file of the VI Metropolitan Magistrate Court, Egmore, Chennai.



CRL RC No. 919 of 2023

WEB COPY

For Petitioner(s): Mr.S.Senthilvel

For Respondent(s): Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This criminal revision petition has been preferred as against the judgment and order dated 07.02.2023 passed in C.A.No.55 of 2022 on the file of the XVII Additional Sessions Court, Chennai, confirming the judgment dated 03.03.2022 passed in C.C.No.1881 of 2017 on the file of the VI Metropolitan Magistrate Court, Egmore, Chennai.

2. The case of the prosecution is that on 10.07.2015 around 11.00 p.m., when the petitioner along with his friend as a pillion rider was driving his motorcycle viz. Hondo Unicorn bearing Registration No.TN 01 N 4156 under the influence of alcohol and proceeded towards Mugapair East Valaiyapathy road in a rash and negligent manner, hit the side of the MTC bus, which was coming in the opposite direction; both the petitioner and the pillion rider of the motorcycle fell down, due to which, the petitioner



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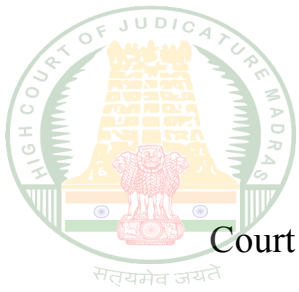
sustained simple injuries and the pillion rider sustained grievous injury on his head; when the pillion rider was taken to hospital, he was declared 'brought dead'.

3 On information, the respondent/police registered an FIR in Crime No.198 of 2015 for the offences punishable under Sections 279 and 304(A) and 337 IPC.

4. After completion of the investigation, the respondent/police filed a final report and the same has been taken cognizance by the trial Court in C.C.No.1881 of 2017 on the file of the VI Metropolitan Magistrate Court, Egmore, Chennai.

5. To prove the case, the prosecution examined nine witnesses and marked fourteen documents. On the side of the petitioner, no witness was examined nor any document marked.

6. On perusal of the oral and documentary evidence, the trial



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Court convicted the petitioner for the offence punishable under Section 185 of the Motor Vehicles Act, 1988 (for brevity “the MV Act”) and sentenced him to undergo six months simple imprisonment.

7. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed by confirming the order of conviction and sentence imposed by the trial Court, challenging which, the petitioner is before this Court.

8. The learned counsel for the petitioner would submit that the prosecution failed to prove that the petitioner was in an inebriated condition committed the accident and in fact, only due to the rash and negligent driving of the MTC bus, the accident had occurred, due to which, the petitioner also sustained injuries. He would further submit that the conviction was only based on the certificate of drunkenness (Ex.P7) issued by the doctor without taking any breathe analysis test to ascertain the content of the alcohol in the petitioner's blood. However, without considering the same, the trial Court as well as the appellate Court



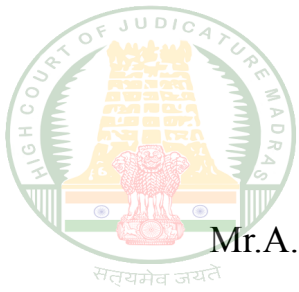
CRL RC No. 919 of 2023

convicted the petitioner for the aforesaid offence.

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9. *Per contra*, the learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner himself has admitted that he was under the influence of alcohol and hit the bus. He would further submit that the pillion rider of the vehicle sustained grievous injury on his head and died on the way to the hospital. Further, he would submit that to prove that the petitioner was in an inebriated condition, certificate of drunkenness (Ex.P7) was issued and further, the Accident Register, which was marked as Ex.P6, clearly proves that the petitioner was in besotted condition. It is his further submission that the provisions of Section 185 of the MV Act state that the alcohol content should not exceed 30 mg/100 ml in the blood of a drunken person, whereas, in this case, the petitioner made an endorsement that the blood and urine test is not necessary, since he himself admitted that he is under the influence of alcohol and therefore, the trial Court and the appellant Court are right in convicting the petitioner and confirming the same, respectively.

10. Heard Mr.S.Senthilvel, learned counsel for the petitioner and



CRL RC No. 919 of 2023

Mr.A.Gopinath, learned Government Advocate (Crl.Side) for the
respondent/police.

11. Admittedly, the petitioner along with the pillion rider while riding his motorcycle, hit the bus and fell down, due to which, the pillion rider sustained grievous injury on his head and died on the way to the hospital. In fact, the petitioner also sustained simple injuries.

12. On perusal of the Accident Register (Ex.P6), which was recorded by the doctor, who treated the petitioner, has deposed that the petitioner was sozzled at the time of accident. Further, the prosecution also produced the certificate of drunkenness (Ex-P7) to prove the offence under Section 185 of the MV Act. Insofar as the other offences are concerned, the prosecution failed to prove the same and the petitioner was acquitted of the offences punishable under Sections 279 and 304(A) IPC and Section 196 of the MV Act.

13. That apart, the petitioner himself has admitted that he was



CRL RC No. 919 of 2023

under the influence of alcohol at the time of accident and as such, he did not want to have blood and urine test in order to prove that he was intoxicated at the time of accident. Therefore, the prosecution proved the offence punishable under Section 185 of the MV Act against the petitioner. Further, the petitioner has drove his motorcycle under the influence of alcohol, committed the accident, due to which, the pillion rider, who is the friend of the petitioner, died. Therefore, the trial Court as well the appellate Court has rightly convicted the petitioner for the offence punishable under Section 185 of the MV Act and this Court, in view of the foregoing reasons, finds no infirmity or illegality to interfere with the judgments passed by the Courts below.

Accordingly, this criminal revision petition stands dismissed.

10-06-2025

nsd
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



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CRL RC No. 919 of 2023

G.K.ILANTHIRAIYAN J.

nsd

To

- 1.The Inspector of Police,
V-5, Thirumangalam Traffic Investigation, Chennai.
- 2.The XVII Additional Sessions Judge, Chennai.
- 3.The VI Metropolitan Magistrate, Egmore, Chennai.

CRL RC No. 919 of 2023

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