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Crl.R.C.No.980 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.04.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.980 of 2022

and

Crl.M.P.No.10306 of 2022

R.Mohan

... Petitioner/A4

Versus

State Represented by
The Inspector of Police,
Central Crime Branch,
Salem.

(Crime No.12/2004)

... Respondent/Complainant

PRAYER : Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. praying to call for the records pertaining to judgment passed by learned Principle Sessions Judge, Salem in C.A.No.38 of 2020 dated 15.03.2022 confirming the sentence imposed by the learned Judicial Magistrate No.1, Salem, passed in C.C.No.449 of 2005 by its judgment dated 25.02.2020 and acquit the petitioner by allowing the revision petition.

For Petitioner : Mr.L.Jaivenkatesh

For Respondent : Mr.L.Baskaran

Government Advocate (Crl. Side)



Crl.R.C.No.980 of 2022

WEB COPY

ORDER

The petitioner/A4 in C.C.No.449 of 2005 was convicted by the trial Court along with 5 others by the judgment dated 25.02.2020 and sentenced to undergo six months imprisonment for the offence under Section 120(b) of I.P.C. and to undergo six months imprisonment and to pay a fine of Rs.500/-, in default, to undergo one month simple imprisonment for the offence under Sections 420 r/w 511 of I.P.C. Aggrieved against the same, the petitioner/A4 preferred an appeal to the learned Principal Sessions Judge, Salem in Crl.A.No.38 of 2020. The learned Principal Sessions Judge, by the judgment dated 15.03.2022 dismissed the appeal confirming the conviction and sentence of the trial Court, against which, the petitioner filed this present revision.

2.The gist of the case is that one Raja Joseph Gunanithi/A1 lodged a complaint on 29.12.2000 at about 7.30 p.m. that while he was near the Raja



Crl.R.C.No.980 of 2022

WEB COPY

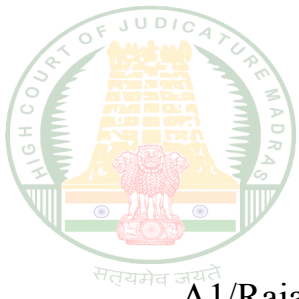
Ganapathy Temple, Salem Town, one R.Mani/A2, driver of Tempo traveler vehicle bearing registration No.TN-33-Z-2070 drove the vehicle in a rash and negligent manner, dashed against him and he suffered fracture. He was taken to Kamala Hospital, Salem and thereafter, a complaint lodged. On receipt of complaint, the then Sub Inspector of Police, James Kannaiyan/A6, Traffic Investigation Wing, Salem City, on 30.12.2000 at about 3.00 p.m. registered a case in Crime No.686 of 2000 for offence under Sections 279 and 338 of I.P.C. The said James Kannaiyan/A6 enquired witnesses, collected documents, filed charge sheet on 10.03.2001 before learned Judicial Magistrate-I, Salem in C.C.No.659 of 2002. The driver of the vehicle/A2 admitted the guilt, paid fine on 23.05.2001. The injured/A1 filed a claim petition in M.C.O.P.No.56 of 2001 claiming Rs.1,00,000/- as compensation on 23.04.2001. The Insurance Company on receipt of claim petition entrusted independent investigation by the Insurance Investigator Sadhasivam/PW18, who conducted investigation and found that the accident took place on



Crl.R.C.No.980 of 2022

WEB COPY

29.12.2000 at 2.30 p.m. and the injured/A1 got admitted in Kamala hospital at 3.00 p.m. and the insurance policy for vehicle bearing registration No. TN-33-Z-2070 expired on 31.10.2000. Suppressing these facts, R.Mohan/A4/Divisional Manager of National Insurance Company, Namakkal issued a cover note insuring the vehicle without verification of records and examining the vehicle. The Doctor, Rajagopal/A5, attached to Kamala hospital made correction of time in the Accident Register copy. PW18/Sadhasivam finding suppression of facts and falsification of records, submitted a report to PW1/Regional Manager, National Insurance Company, Namakkal on 22.03.2002. Thereafter, complaint lodged to the CBCID, which was forwarded to CCB, Salem, who registered the above case. PW21/Inspector of Police received the complaint forwarded by the Commissioner of Police, Salem and a case in Crime No.12 of 2004 for offences under Sections 120(b), 468, 471, 420 r/w 511 of I.P.C. registered. On conclusion of investigation, charge sheet filed against 6 persons, viz.,



Crl.R.C.No.980 of 2022

WEB COPY

A1/Raja Joseph Gunanithi, the injured victim, A2/R.Mani, Driver of the Tempo Traveler vehicle, A3/P.Mallika, Owner of the vehicle, the petitioner/A4/R.Mohan, Divisional Manager of National Insurance Company, Namakkal, A5/K.K.Rajagopal, Kamala Hospital Doctor, who treated injured A1, A6/James Kannaiyan, Sub Inspector of Police, Traffic Investigation Wing, Salem City, who registered Crime No.686 of 2000 for the accident. During trial, on the side of the prosecution, PW1 to PW21 examined, Exs.P1 to P9 marked. On conclusion of trial, all the accused were convicted for offence under Sections 120(b), 420 r/w 511 and 468 of I.P.C. Now A4 is the petitioner before this Court.

3.The contention of the learned counsel for the petitioner is that the petitioner as Divisional Manager, National Insurance Company, on 29.12.2000 at the request of A3/owner and A2/driver of Tempo Traveler vehicle bearing registration No.TN-33-Z-2070, asked P.W.15/Insurance Agent to process the request of A2 and A3. Thereafter, P.W.14/Assistant

5/22



Crl.R.C.No.980 of 2022

WEB COPY

Administrative Officer prepared a cover note and the petitioner received the premium amount for the Insurance Company on the same day. The insurance of the vehicle earlier expired on 31.10.2000 and it was renewed on 29.12.2000 at about 5.00 p.m. A2 takes A1/injured person in the accident, admits him in Kamala Hospital projecting that the accident took place only at about 7.30 p.m. on 29.12.2000 and a case in Crime No.686 of 2000 registered by A6/Sub Inspector of Police, Traffic Investigation Wing, Salem. Thereafter, investigation completed and charge sheet filed in C.C.No.659 of 2001 for the offence under Sections 279 and 338 IPC. A2 in this case paid the fine amount on 23.05.2001. The Insurance Company employed one Sadhasivam/PW18, Insurance Investigator to find out the genuineness of the claim of the insurer. During investigation, it was found that the accident took place on 29.12.2000 at 2.30 p.m. and not at 7.30 p.m. as claimed by A2. The injured was admitted at 3.00 p.m. in Kamala Hospital and thereafter, A2 renewed the insurance at about 5.30 p.m. and projected that the accident had



Crl.R.C.No.980 of 2022

WEB COPY

taken place at 7.30 p.m. The Insurance Company filed a writ petition in W.P.No.38991 of 2002 and this Court directed the Police to investigate the case. Thereafter, a case in Crime No.12 of 2004 for the offence under Sections 120(b), 468, 471 r/w. 511 IPC registered against six persons.

4.The primary contention of the learned counsel for petitioner is that the petitioner as Divisional Manager, assisted by his Officers and Subordinates. In an Insurance Company, the presence of Insurance Agent is common, the petitioner in good faith on the request made by A2 and A3 for renewal of insurance directed PW15/Insurance Agent to inspect the vehicle and to process the application. Thereafter, PW14/Assistant Administrative Officer, who is the appropriate Officer issued the cover note. After issuance of cover note, the petitioner authorised receipt of premium amount for which the petitioner now prosecuted. The persons who ought to have inspected the vehicle prior to issuance of cover note are PW14 and PW15. Further in this

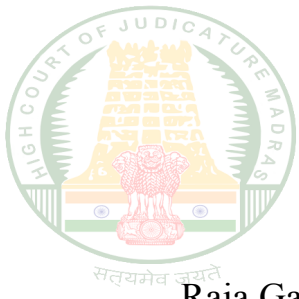


Crl.R.C.No.980 of 2022

WEB COPY

case, the Driver/A2 had admitted the accident case, already paid the fine amount in C.C.No.659 of 2001, and judicial order passed. Without setting aside the judicial order, now alleging that accident took place on 29.12.2000 at 2.30 p.m. and not at 7.30 p.m. is not proper. He further submitted that the petitioner is not the Field Officer to inspect the vehicle prior to insurance. Further, in this case no claim amount paid to A1/victim. The claim petition in M.C.O.P.No.56 of 2001 withdrawn.

5.The further contention of the learned counsel for petitioner is that in this case, PW1/Regional Manager of National Insurance Company admits that on the investigation report of PW18/Sadhasivam he lodged a complaint/Ex.P1, he admits he is not aware of any other details of the case. In this case, PW2, PW3, PW4, PW5, PW6, PW7, PW9, PW10, PW11 and PW12, the eyewitnesses present in the scene of accident and witness to speak of the connected facts are not supported the case of the prosecution. The witnesses are flower vendors, betel nut vendors and shop keepers near the



Crl.R.C.No.980 of 2022

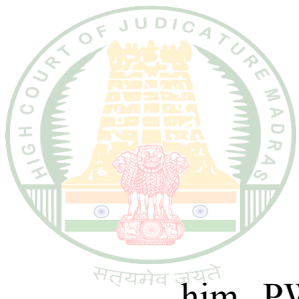
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Raja Ganapathy Temple. Hence, the prosecution attempt to prove the fact that on 29.12.2000, the accident took place at 2.30 p.m. and not at 7.30 p.m. failed. PW8, a flower vendor, he speaks about the accident but does not state anything with regard to the time. PW6-jewellery shop owner and his wife is PW7. Both received the information of accident through phone and they visited A1 in the hospital, nothing about time aspect. PW13 is grocery shop owner in Attur, where A1 resides along with his parents. His evidence is categorical that on 29.12.2000 at about 8.00 p.m. he received a phone call from Kamala Hospital, Salem informing A1 got injured and admitted in the hospital and PW13 was asked to inform the parents of A1. PW19, elder brother of A1 confirms that at about 7.30 p.m., one Pattabiraman, a neighbour in Attur informed him that his brother/A1 got injured and taking treatment at Kamala Hospital. He further confirms that his brother/A1 took treatment for more than 15 days as in-patient and continued his treatment for more than a month. He further states that the Insurance Investigator/PW18 came and



forcibly took a statement as per his requirement. Though he refused to sign, a false promise given unless PW19 signs the claim amount it will not be disbursed. Hence, signature obtained forcibly on false promise. Thus in this case no private witnesses supported the case of the prosecution. Except PW16, the Advocate, who filed a claim petition confirming A1 and his father Xavier approached him and gave details about the accident. Based on which, he filed a claim petition.

6.PW17-Motor Vehicle Inspector examined the vehicle involved in the accident on 31.12.2000. PW14/Assistant Administrative Officer, National Insurance Company, Namakkal during the relevant period, submits that he verified the documents and signed the insurance cover note. His evidence is only to the limited extent to show A3/Mallika is the owner of the vehicle, on the request of the petitioner, he prepared the cover note on verifying all documents. PW15 evidence is that without seeing the vehicle he prepared the cover note. But it is a contradiction. PW21 admits PW15 had not stated to



Crl.R.C.No.980 of 2022

WEB COPY

him. PW20-Insurance Agent evidence is that the insurance policy taken by A2 using his name as agent. It is submitted that the agent names are recorded for the purpose of earning credit points to avail insurance commission. Now the only witness is that of PW18/Insurance Investigator, who enquired about the accident and found that in the F.I.R., time of accident recorded as 2.30 p.m. but in the Accident Register copy it was recorded as 7.30 p.m. and his report is based on the statement of A1's father/Xavier, who is said to have received information about the accident took place at 3.30 p.m. as informed by the grocery shop owner/PW13, but PW13 in his evidence confirms that only at 8.00 p.m. he received the phone call. Further in his investigating report it is recorded that father of A1 and brother of A1 both present when Xavier's statement recorded. In this case, the investigation report marked through the investigating officer and not by PW18. Hence, these documents cannot taken as proved in the manner known to law. Hence, the investigation report loses its significance and it cannot be acted upon.



Crl.R.C.No.980 of 2022

WEB COPY

7.The entire case rest on the investigation report/Ex.P8 and no other Doctor from the Kamala hospital examined to confirm about the correction made in the Accident Register. In this case corrected Accident Register not produced. The entire case rest on the time factor as to whether the accident took place on 2.30 p.m. or 7.30 p.m. To prove the same no materials produced. On the contrary, the accident case in C.C.No.659 of 2001 admitted and fine amount paid on 23.05.2001. Subsequently, PW18 conducted an investigation and gave his report, which was not supported with any statement and materials and the persons enquired by PW18 not examined as witness in this case. Added to it, this report was marked through the investigating officer. Hence, the trial Court relying heavily on the report of PW18 and Ex.P8, convicting the petitioner is not proper. Further, the Lower Appellate Court failed to independently consider the evidence and materials. Hence, the finding of both the Courts below to be set aside.

12/22



Crl.R.C.No.980 of 2022

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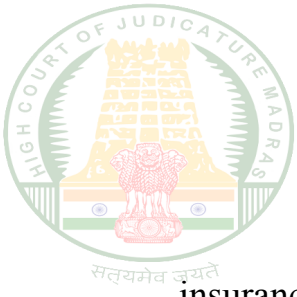
8.The learned Government Advocate filed his counter and submitted that PW1/Regional Manager, National Insurance Company, Namakkal, on receipt of the claim petition in M.C.O.P.No.56 of 2001, appointed PW18, the Insurance Investigator to verify the genuineness of the claim. PW18 conducted investigation and found that F.I.R. in Crime No.686 of 2000 registered by the Traffic Investigation Wing, Salem, in which, it is recorded that accident took place at 2.30 p.m. near Raja Ganapathy Temple, Salem Town. But in the Accident Register copy, it was recorded that accident took place at 7.30 p.m. On the date of accident, Tempo Traveller bearing registration No.TN-33-Z-2070 was insured with the National Insurance Company, Namakkal for the period from 01.11.1999 till 31.10.2000. Thus, on the date of accident, i.e., on 29.12.2000 there was no insurance cover for the vehicle. Coming to know about the same, the owner of the vehicle in connivance with the petitioner got the insurance renewed at about 5.30 p.m.



Crl.R.C.No.980 of 2022

WEB COPY

and to make the accident claim shifted the time of accident from 2.30 p.m. to 7.30 p.m. The Doctor connived and made corrections in the Accident Register. These aspects confirmed by the statement of father of the injured and grocery shop owner in Attur. The brother of the injured confirms that he came to know about the accident at about 3.30 p.m. Thus the petitioner knowing about the status of the vehicle directed PW15/Insurance Agent to inspect the vehicle and to process the application. PW15 prepared insurance cover note and thereafter PW14 approved the same and the petitioner approved collection of the policy amount, renewed the insurance. These facts unearthed during independent investigation by PW18. The investigating officer, examined witnesses, collected materials from Kamala Hospital and from the Insurance office and thereafter filed the charge sheet. In this case, the claimant coming to know, falsity exposed, withdrew the claim petition in M.C.O.P.No.56 of 2001. The Insurance Company earlier approached this Court, filed writ petition W.P.No.13999 of 2000 and this Court directed the



Crl.R.C.No.980 of 2022

WEB COPY

insurance company to approach the police. Thereafter only investigation in this case taken up. The petitioner's contention that Driver of the vehicle pleaded guilty in C.C.No.659 of 2001 and paid fine amount and judicial order passed, without setting aside this judicial order, investigating the above case and filing final report is not sustainable.

9.The trial Court as well as the Lower Appellate Court on the evidence of the witnesses and materials had convicted the petitioner and the other accused. He further submitted that in this case A6/Sub Inspector of Police, passed away on 17.03.2021.

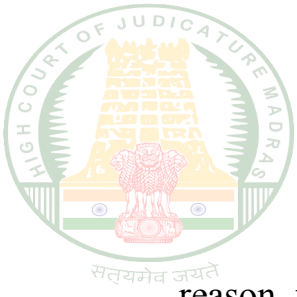
10.Considering the submissions made and on perusal of the material it is seen that in this case the petitioner is a Divisional Manager of National Insurance Company, Namakkal, as Divisional Manager, the petitioner is assisted by the other officers and subordinates. PW14 is the Assistant Administrative Officer and his duty is to verify the vehicles and documents



Crl.R.C.No.980 of 2022

WEB COPY

submitted by the insurers. In this case, PW15 is the Insurance Agent, who prepared the insurance cover note, his evidence is that at the request of the petitioner he prepared the cover note. The presence of insurance agent in the insurance office is common. It is the Insurance Agent, who bring the insurance papers, present the same to the Assistant Administrative Officer and the Assistant Administrative Officer on scrutiny of the documents and verification gives approval. PW14/Assistant Administrative Officer admits that on scrutiny of the documents he approved the insurance cover note. Prior to approval of the cover note, the verification of documents and physical verification to be done by the concerned and not by the petitioner, who is a Divisional Manager, incharge of the entire office. There is designated duty and responsibility to each of the officers and employee of the Insurance Company. Once the Assistant Administrative Officer approves, in usual course the petitioner as Divisional manager authenticate the same, in the absence of any prior information about the wrong particulars, there is no



Crl.R.C.No.980 of 2022

WEB COPY

reason for the Divisional Manager to cause any suspicion. Believing the cover note prepared by the Assistant Administrative Officer, the petitioner approved the cover note and ordered receipt of premium amount for insurers. What had happened outside the insurance office, the petitioner is not privy to the same. There is no materials produced either by way of statement or documents to show that the petitioner had any prior knowledge about the accident details or knew any of the accused in this case. The petitioner in routine authenticated the cover note, insured the vehicle by permitting receipt of premium amount.

11.In this case, the premium amount received by the cashier of the insurance company based on the insurance papers submitted to the office and on the office note approval given by the officials. The petitioner had only followed the routine office procedure and nothing more. The prosecution in this case not proved any iota of material to prove that there was any meeting of mind between the petitioner and other accused. Hence, the petitioner's



Crl.R.C.No.980 of 2022

WEB COPY

conviction for conspiracy falls. Consequently, other conviction under Section 420 r/w 511 of I.P.C., which is an attempt naturally not sustainable bound to fall. In this case, none of the witnesses, namely, PW2, PW3, PW4, PW5, PW6, PW7, PW9, PW10, PW11 and PW12, who are street vendors and the shop owners, who were present in the accident site, not supported the case of the prosecution to show accident took place on 29.12.2000 at about 2.30 p.m. and not at 7.30 p.m. The grocery shop person/PW13 informed A1's parents and brother about A1 admitted in the Kamala hospital at 8.00 p.m. PW19/brother of the victim confirm that at 7.30 p.m. he was informed about the accident. Thus, none of the witnesses had stated about accident at 2.30 p.m. The only other material pointed by PW18 is that in the F.I.R. in Crime No.686 of 2000 it is recorded as 2.30 p.m. but in the Accident Register copy it is recorded as 7.30 p.m. by A6/Doctor. For proving the same, no one from the Kamala hospital examined.



Crl.R.C.No.980 of 2022

WEB COPY

12. Further the corrected Accident Register not submitted for scientific examination to prove the fact of correction. The Accident Register is maintained in Triplicate, one copy will always be maintained in the hospital. Hence, collection of Accident Register copy is vital in this case, neither PW18 nor PW21 took any steps to collect the copy of the Accident Register available in Kamala Hospital. The entire case rest on the investigation report/Ex.P8 of PW18. Strangely Ex.P8 not marked through PW18, it is produced by investigating officer/PW21. The report/Ex.P8 not proved in the manner known to law. Hence, Ex.P8 has no relevance to the case. Thus looking the case from any angle it is crystal clear that prosecution miserably failed to prove the case against the petitioner. Hence, the finding of both Courts below is hereby set aside.

13. In the result, this Criminal Revision Case is allowed. The judgment of conviction and sentence passed by the learned Principal Sessions Judge, Salem in Crl.A.No.38 of 2020 dated 15.03.2022, confirming the judgment of



Crl.R.C.No.980 of 2022

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conviction passed by the learned Judicial Magistrate No.I, Salem in C.C.No.449 of 2005 dated 25.02.2020 both set aside and the revision petitioner/A4 is discharged from all charges. Consequently, the connected Criminal Miscellaneous Petition is closed.

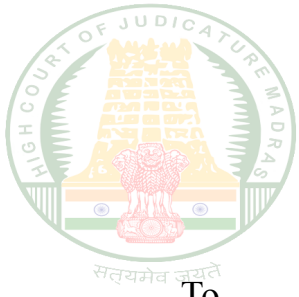
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Index : Yes / No

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Speaking / Non-speaking order
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Crl.R.C.No.980 of 2022

To
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- 1.The Principal Sessions Judge,
Salem.
- 2.The Judicial Magistrate No.I,
Salem.
- 3.The Inspector of Police,
Central Crime Branch,
Salem.
- 4.The Public Prosecutor,
High Court, Madras.



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Crl.R.C.No.980 of 2022

M.NIRMAL KUMAR, J.

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Crl.R.C.No.980 of 2022
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