



Crl.R.C.No.780 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 26.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.780 of 2021

Lakshmanan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Traffic Investigation Wing,
West Police Station,
Coimbatore.

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 of Code of Criminal Procedure to call for the records culminated in the judgment dated 03.08.2021 made in C.A.No.321 of 2019 passed by the learned III Additional District and Sessions Judge, Coimbatore confirming the conviction and sentence imposed in C.C.No.157 of 2015 dated 06.09.2019 on the file of the learned Judicial Magistrate No.VIII, Coimbatore and quash the same.



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For Petitioner : Mr.S.Marshall
For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)
Assisted by Ms.M.Sumii Arnica

ORDER

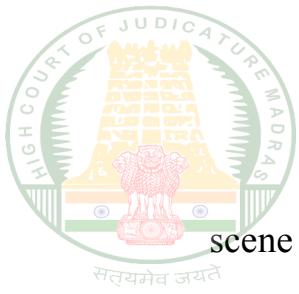
The petitioner/accused was convicted by the learned Judicial Magistrate No.VIII, Coimbatore in C.C.No.157 of 2015 and sentenced to pay a fine of Rs.500/-, in default to undergo two weeks simple imprisonment for the offence under Section 337 IPC, to undergo one year simple imprisonment for the offence under Section 304(A) IPC and to pay a fine of Rs.500/-, in default to undergo two weeks simple imprisonment for the offence under Section 134(a)(b) of Motor Vehicles Rule r/w. 187 of Motor Vehicles Act. Aggrieved against the same, the petitioner preferred an appeal before the Sessions Court in C.A.No.321 of 2019. The learned III Additional District and Sessions Judge, Coimbatore dismissed the appeal confirming the conviction and sentence of the Trial Court by judgment dated 03.08.2021. Against which, the present revision is filed.



2.The case of the prosecution is that on 22.10.2014 at about 9.30 a.m.,

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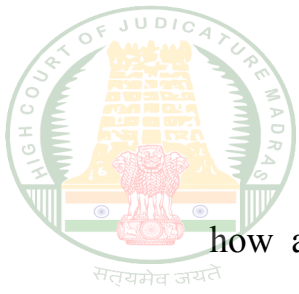
P.W.2 Krishnamoorthy was proceeding in his two wheeler bearing registration Tn-66-H-0452 in Coimbatore-Pollachi main road from north to south along with his wife and son. While he was passing near Eachanari KPM Matriculation School, the Transport Corporation bus bearing registration No.TN-01-AN-0421 driven by the petitioner in a rash and negligent manner dashed the two wheeler of P.W.2 from behind, in which, the said Krishnamoorthy/P.W.2 and his son Dinesh fell to the left side of the road, his wife Geetha fell to the right side of the road and the left rear wheel of the bus ran over her and she died on the spot. The defacto complainant who was travelling 50 meters behind P.W.2 had seen the accident, the petitioner not stopped the bus, after a chase it was stopped 4 kms away. P.W.1 called 108 Ambulance, sent the injured P.W.2 and his son to the Hospital and in another Ambulance, sent the deceased to the Hospital. Thereafter, P.W.2 lodged a complaint to the respondent Police. One Gunaseelan, Sub-Inspector of Police received the complaint/Ex.P1 and registered FIR/Ex.P3 in Crime No.450 of 2014 for the offence under Sections 279, 337 and 304(A) IPC. P.W.7 took up investigation, visited the



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scene of occurrence, prepared observation mahazar/Ex.P2 and rough sketch/Ex.P4, examined the witnesses present in the scene of occurrence, conducted inquest, sent the body for postmortem, sent both the bus and the two wheeler for motor vehicle inspection, collected the inspection reports/Ex.P6 and Ex.P7, collected the postmortem certificate/Ex.P8 and Accident register/Ex.P9 for the injuries sustained by Dinesh and filed the charge sheet. During Trial, P.W.1 to P.W.7 examined and Ex.P1 to Ex.P9 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 which is confirmed by the Lower Appellate Court.

3.The contention of the learned counsel for the petitioner is that P.W.1 is none other than maternal uncle of the deceased Geetha, wife of P.W.2, who is said to be present in the scene of occurrence. P.W.1 states that he was following P.W.2 50 feet behind, at that time, the said Transport Corporation bus overtook him and dashed the two wheeler of P.W.2 from behind, not stopped the vehicle and fled away. P.W.2 had not stated as to



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how and in what manner the vehicle had come in a rash and negligent manner. Further, the Motor Vehicle Inspector's report Ex.P6 and Ex.P7 confirms scratches found on the left rear side of the bus and right handle bar and right footrest damaged to the two wheeler. If the bus had dashed the two wheeler from behind, the damages would be different. Likewise, the evidence of P.W.2, rider of the two wheeler is doubtful. He claims that the bus dashed him from behind but the Motor Vehicle Inspector's report is otherwise. Form the Motor Vehicle Inspector's report, it is seen that there is no damage on the rear side of the two wheeler, correspondingly to the front side of the bus. The contention of the petitioner is that the bus was proceeding in the thar road and P.W.2 was riding the two wheeler in the mud road got into the thar road, lost his balance and got impacted with the bus on the right side. It was due to P.W.2's negligence the accident occurred. If the accident occurred as projected by the eye witnesses, namely, P.W.1 to P.W.3, the damage to the two wheeler would be on the rear side consequentially to the front side of the bus. The Motor Vehicle Inspector's report clearly prove that the accident had not taken place as projected by P.W.1 to P.W.3.



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4.The learned counsel further submitted that in this case, P.W.1 and P.W.3 are close relatives of P.W.2, P.W.1 is the maternal uncle of the deceased Geetha and P.W.3 is the cousin of P.W.2. The presence of P.W.1 and P.W.3 at the time of accident is highly doubtful, being close relatives they were implanted and it is because of P.W.2's negligence, accident took place. P.W.4 is the brother of P.W.2 and P.W.3 informed him about the accident. P.W.5 is the brother-in-law of P.W.2 and he was informed about his sister's death by P.W.4. P.W.6 is the witness to the observation mahazar. He admits that he does not know as to what is contained in Ex.P2/observation mahazar. He would further submit that in this case, Ex.P3 to Ex.P9 were marked through Investigating Officer. The Motor Vehicle Inspector not examined, the Doctor who treated P.W.2 not examined, the Doctor who conducted postmortem on the deceased Geetha not examined and no reason given as to why they were not examined. The accident took place only due to the negligence of P.W.2 and not by the negligence of the petitioner. The Trial Court as well as the Lower Appellate Court failed to consider these lacunas but placed reliance on the inadmissible evidence and convicted the petitioner which is not proper.



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5. 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:

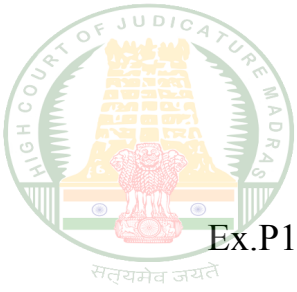
- (1) All the circumstances, including the objective circumstances constituting the accident, from which the inference of guilty is to be drawn, must be firmly established.
- (2) Those circumstances must be determinative tendency pointing unerringly towards the guilt of the accused, and
- (3) The circumstances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

6. The learned Government Advocate (Crl. Side) opposed the petitioner's contention and submitted that P.W.1 is the eye witness who confirms that he was travelling in his two wheeler in Coimbatore-Pollachi



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main road, 50 meters before him, P.W.2 was travelling in his two wheeler with his wife and son. At that time, a Transport Corporation bus driven by the petitioner overtook P.W.1 and hit the two wheeler of P.W.2 from behind, due to which, P.W.2 and his son fell to the left side of the road and his wife Geetha fell to the right side of the road and she was run over by the bus. Further, without providing any medical assistance, petitioner escaped from the scene of occurrence, the villagers chased him and he was detained after 4kms. In this case, P.W.1 on seeing the accident called 108 Ambulance, in one Ambulance P.W.2 and his son sent to the Hospital and in another Ambulance, the deceased Geetha was sent to the Hospital. Thereafter, P.W.1 lodged a complaint and on receipt of the complaint, the Sub-Inspector of Police registered FIR. P.W.7 took up investigation, visited the scene of occurrence, prepared observation mahazar and rough sketch, examined the witnesses present in the scene of occurrence, conducted inquest, sent the body for postmortem, both the vehicles, two wheeler and bus sent for motor vehicle inspection. P.W.7 received the medical report, inspection report and postmortem certificate, on completion of investigation, charge sheet filed. During trial, P.W.1 to P.W.7 examined and



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Ex.P1 to Ex.P9 marked. He would further submit that at the time of marking the documents, namely, motor vehicle inspection reports/Ex.P6 and Ex.P7, postmortem certificate/Ex.P8 and the Accident Register/Ex.P9, the petitioner not objected but now taking a stand that these documents not proved in the manner known to law is not proper. From the Motor Vehicle Inspector's report, it is clear that the accident had not taken place due to any mechanical defect and it was only due to rash and negligent driving of the petitioner. The Trial Court on the materials and evidences had rightly convicted the petitioner, confirmed by the Lower Appellate Court. Hence, prayed for dismissal.

7.Considering the submissions made and on perusal of the materials, it is seen that in this case P.W.1 to P.W.3 are relatives, P.W.1 is the maternal uncle of the deceased Geetha, P.W.3 cousin of P.W.2, P.W.4 brother of P.W.2 and P.W.5 brother of deceased Geetha. In this case, the presence of P.W.1 and P.W.3 in the accident spot and witnessing the accident is highly doubtful. The evidence of P.W.1 to P.W.3 is that the bus driven by the petitioner had come in a rash and negligent manner and



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dashed the two wheeler of P.W.2 from behind and caused the accident. The Motor Vehicle Inspection Reports/Ex.P6 and Ex.P7 confirm there are scratches on the left rear side of the bus and there are damages to the right handle bar and footrest of the two wheeler. The petitioner driver of the bus had overtaken P.W.2, at that time, P.W.2 lost his balance, tilted towards the bus and got impacted to the rear left side of the bus, P.W.2 lost the balance and along with the bike, all the travellers fell down. P.W.2 and his son fell on the left side of the road and the deceased Geetha/wife of P.W.2 fell to the right side of the road, the rear left wheel of the bus ran over her and caused death. Apart from P.W.1 and P.W.3, the projected eye witnesses, no public from the accident spot examined. P.W.1 and P.W.3 are close relatives of P.W.2 and they have not stated that the bus driven by the petitioner in a rash and negligent manner. It is admitted by the Investigating Officer that it is a busy road with heavy traffic flow and the possibility of driving the vehicle with high speed in a rash and negligent manner is not possible. In this case, the documents, Ex.P4/rough sketch, Ex.P6/motor vehicle inspection report of the bus, Ex.P7/motor vehicle inspection of the two wheeler, Ex.P8/postmortem certificate and Ex.P9/Accident Register, all marked



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through Investigating Officer and no reason given as to why these documents not marked through the respective persons to the documents. In such circumstances, it cannot be taken that the documents, proved in the manner known to law. This practice of marking documents through Investigating Officer has been deprecated by this Court on several occasion. Further, in this case the presence of P.W.1 and P.W.3, highly doubtful. The evidence of P.W.2 is unbelievable to the extent the manner in which the accident took place. Admittedly there is no damage to the rear side of the two wheeler and to the front side of the bus to show that the bus was driven by the petitioner in a rash and negligent manner and dashed the two wheeler from behind. It is seen that P.W.2 lost his balance and tilted towards the right side of the road and came in contact with the left rear side of the bus due to his negligence, got impacted on the bus and contributed for the accident. These facts not considered by both the Trial Court and the Lower Appellate Court. Further, from the evidence, it is seen that the conditions stipulated in the decision referred 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.



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WEB COPY 8. Accordingly, the judgment rendered by the learned Judicial Magistrate No.VIII, Coimbatore in C.C.No.157 of 2015 dated 06.09.2019, confirmed by the learned III Additional District and Sessions Judge, Coimbatore in C.A.No.321 of 2019 dated 03.08.2021 both set aside. The petitioner is acquitted from all the charges levelled against him.

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

26.03.2025

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



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To

- 1.The Inspector of Police,
Traffic Investigation Wing,
West Police Station,
- 2.The Judicial Magistrate No.VIII,
Coimbatore.
- 3.The III Additional District and Sessions Judge,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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