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Crl.R.C.No.435 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2025

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No.435 of 2023

N.Muthukumar

... Petitioner

Vs.

1. The State of Tamilnadu,
The Public Prosecutor,
Coimbatore - 641 018

2. The Inspector of Police,
Sulur Police Station,
Coimbatore - 641 402
Crime No.658 of 2014

...Respondents

Criminal Revision Case filed under Sections 397 & 401 of Criminal Procedure Code to set aside the Judgment of the V Additional District & Sessions Judge, Coimbatore made in C.A.No.122 of 2020 dated 28.07.2022 in dismissing the appeal filed by the petitioner / appellant herein confirming the Judgment passed by the Judicial Magistrate, Sulur made in S.T.C. No.166 of 2017 dated 11.02.2020

For Petitioner : Mr.B.Nedunchezhiyan

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



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ORDER

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The present Revision has been preferred as against the Judgment of the learned V Additional District & Sessions Judge, Coimbatore made in C.A.No.122 of 2020 dated 28.07.2022 thereby confirming the order of conviction and sentence passed by the learned Judicial Magistrate, Sulur made in STC No.166 of 2017 dated 11.02.2020 for the offences under Sections 279 and 338 of IPC.

2. The case of the prosecution is that on 11.09.2014, at about 12.30 p.m., in Covai to Trichy main road, near Kathirmill Higher Secondary School, injured was riding his motor cycle, at that time, the petitioner, who is the driver of Government Corporation Bus had driven the bus in a rash and negligent manner and while overtaking the vehicle/two wheeler of the injured, the petitioner hit the two wheeler, therefore, the victim fell down and sustained injury in his right hand.

3. On the side of the prosecution, they had examined P.W.1 to P.W.6 and marked documents as Exhibits P.1 to P.7. On the side of the petitioner, no one was examined and no documents were marked.



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4. On a perusal of the order passed by the trial court, it is seen that the petitioner was charged under Sections 279 and 338 of IPC and with respect to Section 279 of IPC, the petitioner was sentenced to pay a fine of Rs.500/-, in default, to undergo Simple Imprisonment for a period of one week and for Section 338 of IPC, the petitioner was sentenced to undergo three months Simple Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo simple Imprisonment for a period of one week. Being aggrieved by the same, the petitioner filed an appeal and the same was also dismissed, thereby the order of conviction and sentence passed by the trial court was confirmed.

5. It is pertinent to note that the petitioner is the Government Corporation Bus Driver. The eye witness was examined as P.W.1 and the injured was examined as P.W.2. No one was examined to corroborate the evidences of P.W.1 and P.W.2. Even according to P.W.2/injured, when he was proceeding in his two wheeler, the petitioner drove the bus and while overtaking, hit the two wheeler, hence he fell down and sustained injury in his right hand. Therefore, the injured might not have seen the bus, whether, it was driven by the petitioner in a rash and negligent manner or at high speed.

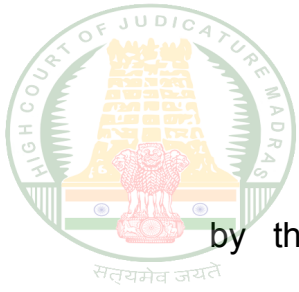


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6. Further, on a perusal of the Motor Vehicle Inspector's Reports, it would reveal that no damage was caused to the bus, therefore, the prosecution failed to prove that the petitioner drove the bus in a rash and negligent manner. That apart, the prosecution also failed to prove that gross negligence had taken place. Though P.W.1 is the eye witness to the occurrence, he is the close relative of the injured and he deposed that after having a chat with injured/P.W.2, the injured/P.W.2 had proceeded in front of his two wheeler and the petitioner drove the bus and hit P.W.2. Therefore, P.W.1 also might not have seen the bus, whether it was driven by the petitioner in a rash and negligent manner. Though injuries sustained by P.W.2 is classified as 'grievous' one, the prosecution failed to cross examine the Doctor, who treated P.W.2. There is no evidence to show that P.W.2 sustained any fracture.

7. In view of the above, the conviction and sentence imposed on the petitioner for offences under Sections 279 and 338 of IPC cannot be sustained and liable to be set aside. Accordingly, the Judgment of the learned V Additional District & Sessions Judge, Coimbatore made in C.A.No.122 of 2020 dated 28.07.2022 in confirming the Judgment passed



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by the Judicial Magistrate, Sulur in S.T.C. No.166 of 2017 dated
11.02.2020 is set aside.

In the result, the present Criminal Revision is allowed.

04.06.2025

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking order
ssd

To

1. The V Additional District & Sessions Judge,
Coimbatore
2. The Judicial Magistrate,
Sulur
3. The State of Tamilnadu
The Public Prosecutor
Coimbatore - 641 018
4. The Inspector of Police,
Sulur Police Station,
Coimbatore - 641 402
Crime No.658 of 014
5. The Public Prosecutor,
High Court, Madras

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G.K.ILANTHIRAIYAN, J.,

ssd

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