



CrI.R.C.No.895 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.895 of 2021

P.Kanakaraj

... Petitioner

Vs.

The State Rep by,
Inspector of Police,
Veerapandi Police Station,
Tiruppur District.
(Crime No.4495/2011).

... Respondent

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of Code of Criminal Procedure, to set aside the judgment of the learned I Additional District & Sessions Judge, Tiruppur in C.A.No.103/2017 order dated 03.02.2021 by confirming the learned Judicial Magistrate Court – IV, Tiruppur in C.C.No.224 of 2017 dated 13.09.2017 convicting the sentencing the petitioner U/s.279 IPC fine of Rs.1,000/- i.d 1 week S.I and U/s.304(A) IPC six months S.I.



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

ORDER

The petitioner was convicted by the learned Judicial Magistrate No.IV, Tiruppur (Trial Court) *vide* judgment, dated 13.09.2017 in C.C.No.224 of 2017 and sentenced to undergo Simple Imprisonment for six months for offence under Section 304(A) IPC and to pay a fine of Rs.1,000/- for offence under Section 279 IPC in default to undergo Simple Imprisonment for one week. Aggrieved over the same, the petitioner preferred an appeal before the learned I Additional District and Sessions Judge, Tiruppur (Lower Appellate Court) in Crl.A.No.103 of 2017 and the same was dismissed *vide* judgment, dated 03.02.2021 confirming the conviction and sentence of the Trial Court. Challenging the same, the present criminal revision case is filed.

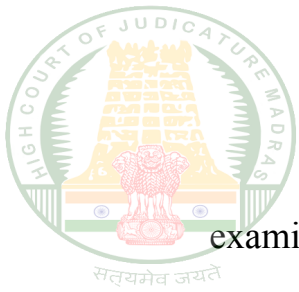
2.Gist of the case is that on 16.11.2011 at about 11.00 a.m., the deceased Surendar while driving his two wheeler *viz.*, TVS Victor bearing Reg.No.TN-39-AC-2125 from North to South in Tiruppur-Palladam road



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with the pillion rider/PW1, near Tamil Nadu Theatre, the petitioner came in the same direction in the lorry bearing Reg.No.TN-39-J-1566 in rash and negligent manner and dashed behind the two wheeler of the deceased. Due to which, the rider of the two wheeler fell on the right side of the road and the pillion rider/PW1 fell on the left side. Suddenly, the rider of the two wheeler was run over by the rear wheel of the lorry driven by the petitioner. Due to which, the face of the deceased got crushed and later died. Thereafter, PW1 lodged a complaint (Ex.P1) to PW6, who registered FIR and placed the case before PW7, Investigating Officer. PW7 visited the scene of investigation, prepared Observation Mahazar (Ex.P2), Rough Sketch (Ex.P6) in presence of PW3, enquired the witnesses, recorded their statements and sent the two vehicles involved in the accident to PW5, Motor Vehicle Inspector. PW5 examined the vehicles and issued Motor Vehicle Reports (Exs.P3 & P4). After conducting inquest, the body of the deceased handed over to the Postmortem Doctor/PW4 who conducted Postmortem and issued Postmortem Certificate (Ex.P7). On conclusion of investigation, charge sheet filed before the Trial Court.

3.During trial, on the side of the prosecution, seven witnesses



examined as PW1 to PW7 and seven documents marked as Exs.P1 to P7.

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On the side of the defence, no witness examined and no document marked.

On conclusion of trial, the Trial Court convicted the petitioner as stated above and the same was affirmed by the Lower Appellate Court.

4.The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case and that the only eye witness projected is PW1, the pillion rider of the two wheeler driven by the deceased Surendar. PW1 claims that on the fateful day, he travelled along with the deceased in his two wheeler, but he was not sustained even a scratch on his body despite a fatal accident took place. PW2, Uncle of the deceased, after hearing the incident came to the hospital and participated in the inquest. The evidence of PW3, the Observation Mahazar witness is that on the request of the Police, he signed the Observation Mahazar (Ex.P2). In this case, the accident took place on a broad day time at 11.00 a.m and it is a busy area, but no public examined as witness. The Investigating Officer/PW7 has not given any plausible reason for non examination of public witness. In view of the same, the conviction of the petitioner is not



sustainable and prays for acquittal.

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5.The learned Government Advocate (Crl. Side) appearing for the respondent Police on the other hand opposed the submissions of the learned counsel for the petitioner and submitted that it is not the number of witnesses and it is only the quality of the witnesses. In this case, PW1 is a pillion rider who travelled along with the deceased in the two wheeler on the fateful day. PW1's evidence is clear that he fell on the left side of the road, hence he escaped unhurt. On the other hand, the rider of the two wheeler/deceased fell on the right side of the road and the lorry driven by the petitioner ran over on the head of the deceased. From the Rough Sketch (Ex.P6), it is seen that the road is 60 feet and it is 30 feet on the northern side and the accident took place on the 10 feet from the edge of the road which shows the lorry came and dashed the two wheeler driven by the deceased and caused the accident. The Postmortem Doctor/PW4 conducted postmortem and confirmed that the death was due to the crush injury on the right skull of the deceased. The Motor Vehicle Inspector/PW5 confirmed there is no mechanical defects in both the vehicles. The Trial Court on the



evidence and materials produced by the prosecution, had rightly convicted the petitioner and imposed only lesser sentence of six months Simple Imprisonment. The lower appellate Court also confirms the same, hence prays for dismissal.

6.Considering the submissions and on perusal of the materials, it is seen that in this case, PW1 is the pillion rider and the deceased is the rider of the two wheeler. The accident took place on the 10 feet from the edge of the road. The petitioner is the driver of the lorry, who dashed the two wheeler driven by the deceased from behind. The crushing of the skull, the lacerations extended up to the brain and the other injuries would confirm the lorry was driven in a rash and negligent manner with high speed and caused the death and accident. The evidence of PW1 is natural and he gave the details about the lorry driven by the petitioner. Since PW1 fell on the left side of the road, he escaped unhurt. The ocular evidence, the medical evidence and the Motor Vehicle Inspection Reports (Exs.P3 & P4) rightly confirmed the death of the deceased was due to the accident. The evidence of PW1 is believable which inspires confidence to sustain the conviction



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and sentence of the Courts below and there is no reason to doubt the same.

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7.In view of the above, the petitioner does not make any ground to interfere with the judgment of the Courts below.

8.This Criminal Revision Case is dismissed affirming the judgment of the Trial Court, dated 13.09.2017 in C.C.No.224 of 2017 and the judgment of the Lower Appellate Court, dated 03.02.2021 in Crl.A.No.103 of 2017.

12.03.2025

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

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To

1.The I Additional District and Sessions Judge,
Tiruppur.

2.The Judicial Magistrate No.IV,
Tiruppur.



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3.The Inspector of Police,
Veerapandi Police Station,
Tiruppur District.

4.The Public Prosecutor,
Madras High Court.

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