



Crl.RC.No.26 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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Petitioner

Versus

The State Rep. By its,
Inspector of Police,
Magudan Chavadi Police Station,
Salem district

...

Respondent

PRAYER: Criminal Revision has been filed under Sections 397 & 401 of the Code of Criminal Procedure praying to call for the records pertaining to the order of dismissal in Crl.A.No.36 of 2021 dated 03.01.2022 passed by the learned Principal Sessions Judge, Salem by confirming the trial court sentence made in CC.No.146 of 2018 dated 30.03.2021 on the file of the learned Judicial Magistrate No.II, Sankagiri, set aside the same and allow the criminal revision petition.

For Petitioner : Mr.B.Gopalakrishnan



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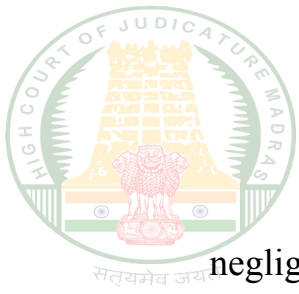
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For Respondent : Mr.A.Gopinath,
Government Advocate(crl.side)

ORDER

This criminal revision has been preferred against the judgment passed in Crl.A.No.36 of 2021 dated 03.01.2022 on the file of the Principal Sessions Judge, Salem thereby confirming the conviction and sentence imposed by the trial court in CC.No.146 of 2018 dated 30.03.2021 for the offence punishable under Sections 279 and 304A of IPC.

2. The case of the prosecution is that on 29.11.2017 at about 5.30 p.m., when one Perumal was riding his motorcycle bearing registration No.TN 36 Z 6309 with the deceased as pillion rider on the Ellampillai to KR Thoppur Main Road near Kadaiyampatty Idanganasalai Municipality Office on the left side of the road, the accused drove his Tata Ace vehicle bearing registration No.TN 30 BV 2911 from the opposite side in a rash and



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negligent manner and hit against the motorcycle thereby the accused caused the accident in which the pillion rider of the motorcycle had sustained grievous injuries on his head. When he was taken to hospital, he died due to injuries sustained in the accident. On the complaint, the respondent registered FIR in crime No.546 of 2017 for the offence under Sections 279, 337 of IPC. After completion of investigation, final report was filed and the same was taken cognizance by the trial court in CC.No.146 of 2018 on the file of the Judicial Magistrate No.II, Sankagiri.

3. On the side of the prosecution, they had examined P.W.1 to P.W.11 and marked Ex.P1 to Ex.P13. On the side of the petitioner, no one was examined and no exhibits were marked. On the basis of the oral and documentary evidence, the trial court found the petitioner guilty for the offences under Sections 279 and 304(A) of IPC and imposed simple imprisonment for a period of one month for the offence under Section 279 of



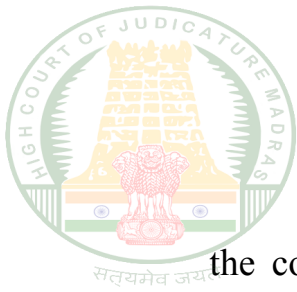
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IPC and sentenced him to undergo one year simple imprisonment under Section 304 A of IPC with fine of Rs.1,000/- Aggrieved by the same, the petitioner preferred appeal before the Principal Sessions Court, Salem and the same was dismissed in Crl.A.No.36 of 2021 dated 03.01.2022 and confirmed the conviction and sentence imposed by the trial court.

4. The learned counsel for the petitioner would submit that there is contradiction between the FIR and charge sheet. As per the FIR, while the deceased was walking on the road, the petitioner drove his Tata Ace vehicle and dashed against the deceased on his backside. Whereas the charge sheet filed by the respondent says that the deceased was a pillion rider of PW2 who drove the vehicle TVS 50 motorcycle and in the opposite side, the petitioner drove his Tata Ace vehicle and dashed against the two wheeler, due to which the pillion rider sustained grievous injuries on his head and died. Further, statement of PW1 says that on recording his statement, FIR was registered only on 30.11.2017, whereas FIR says that on

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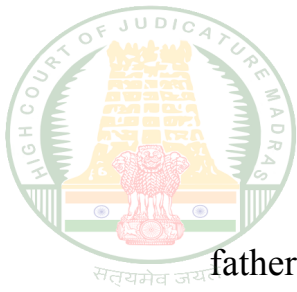


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the complaint lodged by the son of the deceased, FIR was registered on 29.11.2017. Further PW1 to PW3 never even whispered that the driver of Tata Ace drove his vehicle in a rash and negligent manner and hit against the two wheeler. In fact, the rider of the two wheeler did not sustain any injury. The Tata Ace vehicle which was driven by the petitioner did not even suffer any damage as per the report submitted by the Motor Vehicle Inspector. Therefore, the prosecution failed to prove the accident itself. Without considering these facts and circumstances, both the trial court as well as the appellate court convicted the petitioner for the offence under Sections 279 & 304(A) of IPC. Therefore, he prayed to allow this petition.

5. The learned Government Advocate(crl.side) appearing for the respondent submitted that though FIR did not say that the deceased was the pillion rider of the two wheeler which was driven by PW2, one of the sons of the deceased lodged complaint alleging that he was informed that his



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father met with an accident, due to which he sustained head injury.

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Immediately, he rushed to the scene of crime and had taken the deceased to the hospital. Thereafter on enquiry, he found that the deceased was the pillion rider of the motorcycle which was driven by one, Perumal and the petitioner drove his Tata Ace vehicle from the opposite side and dashed against the two wheeler and caused accident, due to which the deceased sustained head injuries. After recording the statements under Section 161 of Cr.P.C. the respondent filed final report. PW3 and PW4 identified the accused who drove the vehicle which caused accident. Further the person who drove the motorcycle was examined as PW2. He categorically deposed that the accused drove his Tata Ace vehicle in a rash and negligent manner and dashed against the two wheeler, due to which the deceased sustained injuries on his head. Therefore, the courts below rightly convicted the petitioner and the conviction does not warrant any interference by this Court.



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6. Heard, the learned counsel appearing on either side and perused

the records produced before this Court.

7. On perusal of records revealed that PW1 lodged complaint on 29.11.2017 alleging that he was informed about the accident in which his father sustained grievous injuries. Immediately he rushed to the place of accident and had taken his father to the hospital. Later he found on enquiry that the petitioner herein drove his Tata Ace in a rash and negligent manner from the opposite side and dashed against his father when he was the pillion rider of the motorcycle which was driven by PW2. Further, on his complaint, the respondent registered FIR in crime No.546 of 2017 for the offence under Sections 279 & 337 of IPC. After completion of investigation, final report was filed. On the side of the prosecution, complainant was examined as PW1. The person who drove the vehicle was examined as PW2. From the evidence of PW2, it can be noted that the petitioner drove his Tata Ace four

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wheeler in a rash and negligent manner on the two wheeler side and dashed against the two wheeler, due to which the pillion rider of the two wheeler i.e. the deceased sustained injuries on his head.

8. Further, on perusal of the Motor Vehicle Inspector's Inspection Report says that Tata Ace vehicle which was driven by the petitioner was intact and the accident did not happen due to any mechanical defect of the vehicle and the accident took place due to rash and negligent driving of the petitioner. Though the offending vehicle did not suffer any damage, it does not mean that the said vehicle did not involve in the accident. For example, if an offending vehicle is coming at high speed and hitting an opposite vehicle, there is no chance for causing any damage to the offending vehicle, since immediately after hitting the opposite vehicle, if the opposite vehicle is a two-wheeler, it will be thrown out. PW3 and PW4 categorically deposed that they are running a petty shop just nearer to the place of accident and



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after hearing the noise, they came out from their shop and found that the petitioner drove the Tata Ace four-wheeler and hit the motorcycle which was driven by the PW2 and caused accident. Therefore, the entire accident was clearly proved by the prosecution and the trial court rightly convicted the petitioner for the offence under Sections 279 and 304A of IPC and the same was rightly confirmed by the appellate court. Therefore, this Court finds that there is no illegality or infirmity in the judgments passed by the trial court as well as the appellate court to interfere with the conviction and sentence imposed on the petitioner. As such, this criminal revision is liable to be dismissed.

9. Accordingly, this criminal revision is dismissed.

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

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G.K.ILANTHIRAIYAN. J,

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To

- 1.The learned Principal Sessions Judge,
Salem
- 2.The learned Judicial Magistrate No.II,
Sankagiri
- 3.Inspector of Police,
Magudan Chavadi Police Station,
Salem district
- 4.The Public Prosecutor,
High Court of Madras
- 5.V.R.Section,
High Court of Madras

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