



Crl.RC.No.259 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2025

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.RC.No.259 of 2024

Rizwan

...Petitioner

Vs.

State by,
The Inspector of Police,
Ranipet Police Station,
Vellore District.
Crime No.399 of 2018

...Respondent

This Criminal Revision is filed under Section 397 r/w 401 of Code of Criminal Procedure, 1973 to set aside the order passed in Crl.A.No.111 of 2023 dated 02.12.2023 on the file of the II Additional District and Sessions Judge, Vellore @ Ranipet, in C.C.No.70 of 2021, on the file of District Munsif Cum Judicial Magistrate, Ranipet and acquit the petitioner.

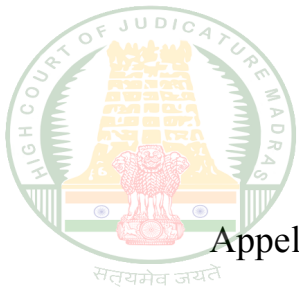
For Petitioner : Mr.M.S.Niranjhan

for M/s.D.Thirumoorthy

For Respondent : Mr.J.Subbiah, GA (Crl. Side)

ORDER

This Criminal Revision challenges the judgement of the learned II Additional District and Sessions Judge, Vellore at Ranipet dated 02.12.2023 made in Criminal Appeal No.111 of 2023 whereby, the



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Appellate Court had confirmed the conviction and sentence imposed on the accused by the trial Court namely the District Munsif cum Judicial Magistrate, Ranipet by its judgment dated 26.06.2023 made in CC.No.70 of 2021. By the said judgement, the accused was found guilty of the offences under Sections 279, 338(two counts) and 304(A) of Indian Penal Code and was sentenced to undergo simple imprisonment for a period of six months and additionally in respect of the offence under Section 338 (two counts) of Indian Penal Code, a fine of Rs.1000/- for each count is also imposed and in default of payment of fine, the accused was directed to undergo simple imprisonment for a period of three months.

2. The case of the prosecution is that, on 31.08.2018, at about 5:45 a.m, the accused was driving the Ashok Leyland carriage vehicle bearing Registration No.TN 73 Q 5837 in a rash and negligent manner and collided head-on against the deceased Baskaran who was riding a two wheeler and thereafter also, hit yet another two wheeler causing injuries to one Gopinath and Dhanraj. Upon the receipt of the information, a case was registered in Crime No.399 of 2018. P.W.7 took up the matter for investigation and filed final report proposing the accused guilty of the



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offences under Sections 279, 338 (two counts) and 304(A) of IPC. The case was taken on file as CC.No.70 of 2021. Upon issuing summons for appearance of accused and furnishing of copies and upon the accused being questioned, he denied the allegations and stood trial. In order to bring home the charges, the prosecution examined P.W.1 to P.W.7 and Exhibits P.1 to P.15 were also marked. Upon being questioned about the material evidence on record under Section 313 of the Code of Criminal Procedure, the accused denied the same as false. Thereafter, no evidence was let in on behalf of the prosecution.

3. The trial Court considered the arguments of the Assistant Public Prosecutor and the learned counsel for the accused and found the accused guilty of the offences and sentenced him as aforementioned. Aggrieved by the same, the Criminal Appeal No.111 of 2023 was filed by the accused and the Appellate Court after re-appreciation of evidence, confirmed the conviction and sentence as imposed by the trial Court. Aggrieved by which, the present Criminal Revision is filed.

4. The learned counsel appearing on behalf of the petitioner would submit that in this case, injured witnesses P.W.1 and P.W.2 were the



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eyewitnesses to the incident. P.W.2 admitted the vehicle driven by the petitioner accused was coming from the opposite direction. The two wheeler driven by the deceased was travelling in some distance in front of P.W.1 and P.W.2. When specifically cross examined, P.W.1 has categorically admitted that he is not in a position to pin-pointedly tell as to whether the accident happened on the mistake of the petitioner / accused or the deceased / rider of the two wheeler. Therefore, the learned counsel would submit that the trial Court as well as the lower Appellate Court ought to given the benefit of doubt and the learned counsel would also submit that the road was partly dug up at that time and was very congested and the deceased suddenly swerved in and came to the middle of the road on account of the digging up of the road and therefore the accident had happened for no fault of the petitioner.

5. The learned Government Advocate (Crl. Side) would submit that in this case after hitting the first two wheeler, the vehicle of the petitioner also hit the second two wheeler, causing injuries to P.W.1 and P.W.2. Therefore the rashness in which the petitioner swerved the vehicle is demonstrated by the prosecution and as such, the charges are clearly proved.

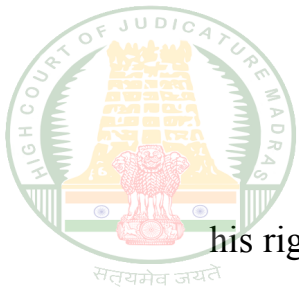


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7. It is true that there could have been a possibility of contribution of negligence by the deceased also, by swerving into the middle of the road since the road was dug up on the side. But, that by itself was not the sole reason for the accident which would be clear from the evidence on record that the accused was driving the vehicle in a high speed and therefore, unable to control and avoid the accident and the vehicle also hit the second two wheeler even after dashing against the first two wheeler.

8. Therefore, I am unable to accept the contention of the learned counsel for the petitioner that there was no fault at all on behalf of the petitioner. But however the said argument of the learned counsel for the petitioner can very well be considered by this Court while gauging the manner of accident. The accused has driven the vehicle in a speedy manner but however, on account of the digging of the road coupled with the fact that it is early in the morning when the deceased has swerved to



his right and came to the middle of the road, the accident had happened.

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9. Therefore, to that extent, the manner of the accident can be taken note of and the sentence proportionate to the act can be made. As a matter of fact, the petitioner was aged 28 years at the time of incident and it is confirmed that he has no other bad antecedents. The seriousness of his act was made known to him by making him to surrender after the Criminal Court pronounced the verdict and he has also undergone incarceration for about nine days. He realised since then under sole remorse. For all the above reasons, I am of the view that the sentence can be modified as period already undergone.

10. In view thereof this Criminal Revision is partly allowed on the following terms.

(i) The conviction of the petitioner for the offence under sections 279, 338 (two counts) and 304(A) of IPC by the judgement of trial Court dated 26.06.2023 in C.C.No.70 of 2021 and the Appellate Court dated 02.12.2023 in Crl.A.No.111 of 2023 shall stand confirmed. However, the sentence of imprisonment alone



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shall be modified as period already undergone. The fine
amount is reported to be already paid.

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NCC : Yes / No

To

1. The II Additional District and Sessions Judge, Vellore @ Ranipet
2. The District Munsif Cum Judicial Magistrate, Ranipet
3. The Inspector of Police,
Ranipet Police Station,
Vellore District.
4. The Public Prosecutor,
High Court of Madras.



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D.BHARATHA CHAKRAVARTHY.J.,

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