2026:MHC:4498

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-10-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No.452 of 2021
and
Crl.M.P.No.9909 of 2021
CNR: {HCMA011061902021}

K.Jayabal,
S/o.Kalimuthu,
Door No.10-B,
Marappa Gounder Veedhi,
Sanakara Eye Hospital,
Ramakrishna Mill,
Ganapathy,
Coimbatore.

...Appellant/A1

Vs

The State rep. by
The Inspector of Police,
TIW (Central) Police Station,
Coimbatore City.
Crime No.258/2009.

...Respondent/Complainant

Prayer : Criminal Appeal filed under Section 374(2) of Cr.P.C., against the Judgment of conviction by the District Sessions Court for Trial of Bomb Blast Cases, Coimbatore, dated 02.08.2021 in S.C.No.118 of 2019.

For Appellant: Mr.D.Udhayasuriyan

For Respondent: Ms.Sharada Vivek
Additional Public Prosecutor

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JUDGMENT

The Criminal Appeal challenges the Judgment passed in S.C.No.118 of 2019, dated 02.08.2021, by the learned Sessions Judge, Sessions Court for Trial of Bomb Blast Cases, Coimbatore, holding the appellant/A1 guilty of the offence under Section 304-A of the Indian Penal Code, 1860, (hereinafter referred to as the IPC), (4 counts), and sentencing him to undergo two years of rigorous imprisonment (each count). The sentences were ordered to run concurrently.

2(a). The case of prosecution is that the appellant/A1 and his employer had a wordy altercation while the appellant was driving the lorry bearing Reg.No.TN 37 Z 1233 on 31.08.2009 at about 08:45 a.m.; and that on account of the same, the appellant drove the vehicle in a rash and negligent manner and caused the death of four persons who were standing near a Bakery and Ken Studio and thus committed the offences under Section 304(ii) of the IPC (four counts) and under Section 304-A of the IPC (four counts) as against the appellant.

(b) On a complaint [Ex.P10] given by P.W.1/*de-facto* complainant, a case in Crime No.258 of 2009 was registered for the offence under Section 304(ii) of IPC. The FIR was marked as Ex.P11.

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(c). Upon investigation, the final report was filed by P.W.10, the Inspector of Police, for the offence under Section 304(ii) of the IPC before the learned Judicial Magistrate No.VIII, Coimbatore.

(d). On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with, and the case was taken on file as S.C.No.118 of 2019 by the learned Sessions Judge, Sessions Court for Trial of Bomb Blast Cases, Coimbatore. The Trial Court framed two charges against the appellant, one under Section 304(ii) (4 counts) of the IPC and the other under Section 304-A (4 counts) of the IPC. During the trial, when questioned, the accused pleaded 'not guilty.'

(e). Before the Trial Court, the prosecution had examined 10 witnesses as P.W.1 to P.W.10 and marked 15 documents as Exs.P1 to P15. When the accused was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The accused neither examined any witness nor marked any document on his side.

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(f) The Trial Court found that the prosecution had not established the charge under Section 304(ii) (4 counts) of the IPC and held the appellant guilty of the offence under Section 304-A (4 counts) of the IPC and sentenced him as stated above. Aggrieved by the said conviction and sentence, the appellant had preferred the instant appeal.

3. The learned counsel for the appellant/A1 would submit that the impugned Judgment cannot be sustained; that the Motor Vehicles Inspector had clearly opined that the accident took place because of the *"steering box failure i.e., mechanical failure due to improper maintenance of the vehicle*"; and that therefore, the impugned Judgment is liable to be set aside.

4. Heard the learned Additional Public Prosecutor for the respondent, who would submit that the Trial Court had, on the basis of evidence on record, held that it was the duty of the appellant to maintain his vehicle in a proper condition, and having failed to do so would attract the offence under Section 304-A of the IPC, as it had caused the death of four persons, and prayed for dismissal of the appeal.

5. As stated above, the prosecution had examined ten witnesses. P.W.1 is the *de-facto* complainant and eye-witness. P.W.2 is stated to be another

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eyewitness. P.W.3 is the witness to the Observation Mahazar and Seizure Mahazar, Exs.P2 and P3. P.W.4 is the mother of one of the deceased and speaks about receiving the body of the deceased. P.W.5 is the relative of another deceased and speaks about the receipt of the body of the deceased. P.W.6 is the Doctor who conducted post-mortem on all the deceased and had issued Exs.P4 to P7, post-mortem reports. P.W.7 is the Motor Vehicles Inspector who had opined that the accident took place only due to mechanical failure. P.W.8 is the Sub-Inspector of Police, who conducted the inquest. P.W.9 is the Sub-Inspector of Police who had registered the FIR. P.W.10 is the Inspector of Police who filed the Final Report.

6. The prosecution relied upon the evidence of eyewitnesses P.W.1 and P.W.2. P.W.1 turned hostile. Though he had admitted the signature in Ex. P1, he denied having given any complaint. Therefore, he was treated as hostile by the prosecution. P.W.2 is the eyewitness who deposed that the appellant and his employer who was arrayed as A2, were engaged in a conversation at the time of accident and the accident took place only due to the negligence of the appellant. The evidence of P.W.2 on the face of it appears to be highly improbable. According to P.W.2, the appellant drove the lorry very fast and rashly. That being the case, it is not known as to how he could have witnessed the alleged conversation between the appellant/A1 and his employer/A2.

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7. Be that as it may. The other evidence is of no avail to the prosecution. P.W.7, who had inspected the vehicle, had clearly stated in his report, Ex.P8, as follows:

> *"I am of the opinion that the accident was due to steering box failure, i.e., mechanical failure due to improper maintenance of the vehicle."*

8. It may be mentioned here that the Trial Court had recorded the finding of guilt by observing that the appellant ought to have exercised due care and caution in maintaining the vehicle in good condition, and since he has not done so, he is guilty of negligence. This is not even the case of the prosecution. It has to be remembered that what is culpable is not mere negligence, but gross negligence. There is no evidence in this case to hold that the appellant was guilty of gross negligence even assuming that he did not maintain the vehicle properly. That apart, the Court cannot infer negligence on the basis of evidence adduced, contrary to the prosecution case, without altering the charges and giving an opportunity to the appellant to defend the said charges.

9. Thus, since the evidence of P.W.2 does not inspire confidence, and in the light of the evidence of the Motor Vehicles Inspector, it is highly unsafe to hold the appellant guilty of the offence of 304-A IPC. Therefore, the impugned Judgment is liable to be set aside.

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10. Accordingly, this Criminal Appeal is allowed. The impugned Judgment passed by the Trial Court is hereby set aside, and the appellant is acquitted of all the charges. Bail bond, if any, executed by the appellant shall stand discharged. Fine amount, if any, paid, shall be refunded to the appellant. Consequently, the connected miscellaneous petition is closed.

30-10-2026

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
dk

To

1. The Sessions Judge,
   Sessions Court for Trial of Bomb Blast Cases,
   Coimbatore.

2. The Inspector of Police,
   TIW (Central) Police Station,
   Coimbatore City.

3. The Public Prosecutor,
   The High Court of Madras,
   Chennai – 600 104.

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