



Crl.R.C.No.1135 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.03.2026

CORAM

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

Crl.R.C.No.1135 of 2021

Baby Rajan

... Petitioner

Vs.

State of Tamilnadu,
Rep by Inspector of Police,
Anuppapalayam Police Station,
Tiruppur.

... Respondent

Prayer: Criminal Original Petition filed under Sections 397 r/w 401 of Cr.P.C to set aside the Judgment of conviction and sentence passed by the Learned Principal Sessions Judge, Tiruppur in Crl.A.No.38 of 2021 dated 16.08.2021 confirming the Judgment of conviction and sentence passed by the learned Judicial Magistrate No.III, Tiruppur in C.C.No.819/2019 dated 27.04.2021 in Crime No.49 of 2019 on the file of the Respondent police and pass orders.

For Petitioner : Mr. R. Nagalingam

For Respondent : Mr.L. Baskaran, Government Advocate

ORDER

This Criminal Revision petition has been filed to set aside the Judgment of conviction and sentence passed by the Learned Principal Sessions Judge, Tiruppur in Crl.A.No.38 of 2021 dated 16.08.2021



CrI.R.C.No.1135 of 2021

thereby confirming the Order of conviction and sentence imposed by the Trial Court in C.C.No.809/2019 dated 27.04.2021 on the file of the learned Judicial Magistrate No.III, Tiruppur in Crime No.49 of 2019 on the file of the Respondent.

2. The case of the prosecution is that on 24.01.2019 at about 12.30 a.m between Tiruppur- Perumanallur road, Boyampalayam junction, the two wheeler bearing Registration No: TN 39-CJ-3349 was driven by P.W.5 along with pillion rider who is the deceased. At that time the accused had driven his Eicher Vehicle bearing Registration No.TN-39-BE-0813 in the opposite direction on the other end of the road and suddenly crossed the road and dashed against the two wheeler. Therefore, the rider of the two wheeler sustained grievous injuries and the pillion rider sustained head injuries and he fell unconscious and was admitted in the hospital where he was declared dead. The complaint was lodged by the father of the deceased before the Inspector of Police, Anupparpalayam Police Station for the offences u/s 279,338 and 304(A) of IPC. After completion of investigation final report was filed and the same was taken cognizance by the Trial Court.



Crl.R.C.No.1135 of 2021

3. In order to prove the charges, the prosecution had examined P.Ws.1 to P.W.8 and marked Exs.P.1 to Ex.P.11. On the side of the accused no one was examined and no documents were produced.

4. On a perusal of oral and documentary evidence, the Trial Court found the accused guilty for the offence u/s 279,338,304(A) and convicted and sentenced to pay a fine of Rs.500/- and Rs.1,000/- for the offences u/s 279 and 338 of IPC respectively. In default of payment of the fine amount he was directed to undergo SI for one month for the offence U/s 304(A) of IPC. He was sentenced to undergo one year SI and to pay a fine of Rs.1,000/-, in default to undergo further Simple Imprisonment for 3 months. Aggrieved by the same the petitioner has filed an Appeal before the Learned Principal Sessions Judge, Tiruppur in Crl.A.No.38 of 2021 and the same was dismissed on 16.08.2021 and confirmed the conviction and sentence imposed by the Trial Court. Hence the Present Revision.

5. The learned counsel for the petitioner submits that the rider of the two wheeler had deposed as P.W.5. Though he had taken treatment on



CrI.R.C.No.1135 of 2021

the day of accident in two hospitals no documents were produced before the Trial Court. In fact he had not lodged any complaint and only on the complaint lodged by the father of the deceased, the respondent had registered the F.I.R. P.W.5 did not disclose in his statement that he was under the influence of alcohol at the time of accident. Only because of his negligence, the accident had occurred and in order to suppress the same, he did not lodge any complaint and did not even produce any medical records for the treatment undergone by him. Infact, the Doctor who examined P.W.5 also did not depose before the Trial Court which is fatal to the case of the prosecution. That apart the two wheeler which was driven by P.W.5 was completely damaged and it shows that while the petitioner had driven his four wheeler slowly and while turning to the other side, the two wheeler which came in the opposite direction in a rash and negligent manner dashed against the petitioner's vehicle. Therefore, the accident had occurred only due to the rash and negligent driving of P.W.5. The investigation officer deposed as P.W.8 and he had categorically admitted the above said facts but Trial Court did not take note of the same and convicted the petitioner and the same was confirmed by the Appellate Court. Hence, prays to allow this petition.



Crl.R.C.No.1135 of 2021

WEB COPY

6. *Per Contra*, the learned Government Advocate submitted that the accident had occurred during the early hours on 24.01.2019. The petitioner had driven his vehicle without following traffic rules and all of a sudden he turned his vehicle to the eastern side and dashed against the two wheeler. Therefore, the rider of the two wheeler also sustained injuries and the pillion rider of the two wheeler sustained grievous head injuries. In spite of the best treatment, he died. The eyewitness to the occurrence had deposed as P.W.4 and he categorically deposed about the accident and it is also corroborated by P.W.5 who is another injured witness who had driven the two wheeler. Due to the accident, the deceased sustained grievous injuries. Postmortem report also categorically reveals that the deceased died due to the grievous injuries sustained in the accident. Therefore, the prosecution had categorically proved the charges beyond reasonable doubt. Hence, the Trial Court convicted the petitioner and the same was confirmed by the Appellate court which does not require interference.



CrI.R.C.No.1135 of 2021

7. Heard the learned counsel for the petitioner and the respondents.

WEB COPY

8. The only point to be considered in this Revision is whether the accident occurred due to the negligence of the petitioner or P.W.5. Admittedly P.W.5 drove his two wheeler from North to South on the Boyampalayam junction where there is a crossing to reach Nerupachal Road. When the petitioner was driving his four wheeler from South to North Thiruppur towards Perumanallur road, he had turned his vehicle to the right side to reach the Nerupachal Road and at that time, from the opposite side P.W.5 had driven his two wheeler and dashed against the four wheeler. Though P.W.5 was suggested that he was under the influence of alcohol while driving, he denied the same. The other circumstances shows that he was under the influence of alcohol, since he sustained injuries and took treatment in two different hospitals at Gopichettyalayam and also in Thirupur. However, the prosecution did not produce any documents to show that he sustained injuries and that he took treatment in two hospitals. Thereafter, he also had taken treatment in Kovai Medical Centre Hospital, but the prosecution did not even produce a single piece of evidence to show that he had taken treatment in that



CrI.R.C.No.1135 of 2021

hospital. The prosecution had also failed to examine the Doctor who treated P.W.5/ rider of the motor cycle who also sustained injuries. The investigation officer deposed as P.W.8 and he categorically deposed that P.W.5 was examined on 24.01.2019 itself at the Hospital and thereafter at Tirupur Government Hospital. However, the non examination of the Doctor who treated P.W.5 is fatal to the case of prosecution and also non production of evidence to that effect also is fatal to the case of the prosecution. While fixing the negligence on the part of the petitioner, the prosecution has to come with clear case that the petitioner is the reason for the accident. But the prosecution failed to produce any piece of evidence except the rough sketch which is marked as Ex.P.5 which shows that when the petitioner was turning his vehicle to the right side towards Nerupachal Road, P.W.5 had driven his motor cycle and had dashed against the four wheeler. It is also evidenced from the Motor Vehicle's Report that the left side of the bumper of the four wheeler had gotten damaged. If at all the petitioner drove his vehicle in a rash and negligent manner and dashed against the two wheeler, the four wheeler would have been damaged on its front side.



Crl.R.C.No.1135 of 2021

9. On perusal of the Motor Vehicle Inspector's report of the two wheeler shows that the two wheeler was completely damaged and it shows that P.W.5 drove his two wheeler in a rash and negligent manner and dashed against the four wheeler which was turning to the right side very slowly. Therefore, the prosecution failed to prove that the entire negligence was on the part of the petitioner. In fact P.W.5 did not lodge any complaint. Further, the evidence of P.W.4 who happens to be the eyewitness is also doubtful for the simple reason that he was working as a supervisor in the Tasmac shop and the accident took place at about 12:50 a.m. Further he also belongs to the same Village as P.W.5, therefore, he is an interested witness to the prosecution case.

10. In overall circumstances, the prosecution failed to prove the charges beyond reasonable doubt and the benefit of doubt goes in favour of the petitioner. In view of the above this Criminal Revision case is allowed and the order Judgment passed by the Learned Principal Sessions Judge , Tiruppur in Crl.A.No.38 of 2021 dated 16.08.2021 confirming the Order of conviction and sentence imposed by the Trial Court in C.C.No.809 of 2019 dated 27.04.2021 on the file of the learned Judicial



Crl.R.C.No.1135 of 2021

Magistrate No.III, Tiruppur is hereby set aside. The petitioner is acquitted of all charges in C.C.No.809 of 2019 on the file of the learned Judicial Magistrate No.III, Tiruppur. Fine amount, if any paid, shall be refunded to the petitioner forthwith. Bail bonds, if any executed, shall stand cancelled.

24.03.2026

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

To.

1. The Learned Principal Sessions Judge, Tiruppur
2. The Learned Judicial Magistrate No.III, Tiruppur
3. The Public Prosecutor,
Madras High Court, Chennai.



WEB COPY



Crl.R.C.No.1135 of 2021

G.K.ILANTHIRAIYAN, J
smn

Crl.R.C.No.1135 of 2021

24.03.2026