

S.Prakash Vs. the State

S.Prakash Vs. the State

SooperKanoon Citation : sooperkanoon.com/1169006

Court : Chennai

Decided On : Sep-02-2014

Judge : P.R.Shivakumar

Appellant : S.Prakash

Respondent : The State

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED: 02.09.2014 CORAM THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR Criminal Revision Case (Md.No.387 of 2008 S.Prakash ..Petitioner versus The State by the Inspector of Police, Nallattinpudur Police Station, Thoothukudi District..Respondent Petition filed under Section 397 read with 401 Cr.P.C., against the judgment made in C.A.No.141 of 2008 by the Additional District Sessions Judge, Fast Track Court No.1, Thoothukudi, dated 14.12.2007 confirming the judgment of conviction made in C.C.No.137 of 2005 by the Judicial Magistrate No.1, Kovilpatti, dated 14.09.2006.

!For Petitioner : Mr.K.Ananth ^For Respondent : Mrs.S.Prabha, Government Advocate (Criminal Side) :

ORDER

The petitioner herein was convicted by the learned Judicial Magistrate No.1, Kovilpatti, in C.C.No.137 of 2005 on the file of the said Court for the offences

punishable under Sections 279, 337, 338 and 304-A IPC.

2.The prosecution case in brief is as follows:- On 09.03.2005 at 13.30 hours.P.W.1-Maruthaiya, P.W.2-Perumal Konar and one Ganapathy were proceeding in a four wheel tyre bullock cart near Nalatinputhur Reliance building on the Madurai ?.

Tirunelveli stretch of national highways and at that point of time, the indicated car bearing Regn.No.TN-58-J-6689 which came in the very same direction, was driven by its driver namely, the revision petitioner herein in a rash and negligent manner as a result of which it collided with the tyre bullock cart in which the above said persons were proceeding.

Due to the said impact all the three occupants of the bullock cart were thrown from the cart resulting in the death of Ganapathi grave injuries to Perumal Konar (P.W.2) and simple injuries to Maruthaiya (P.W.1).3.Pursuant to the said accident a case was registered on the file of the Nalatinputhur Police Station as Crime No.47 of 2005 for the offences punishable under Sections 279, 337, 338 and 304-A IPC.

The same was taken on file by the learned Judicial Magistrate No.I, Kovilpatti as C.C.No.137 of 2005.

The learned Judicial Magistrate, after trial, considered the evidence and pronounced a judgment holding the petitioner herein guilty of all the four offences with which he stood charged, convicted him for the said offences and sentenced him to undergo the punishment as follows: ?.(i) for the offence under Section 279 IPC, 3 months rigorous imprisonment and a fine of Rs.1,000/- with a default sentence of simple imprisonment for one month (ii) for the offence under Section 337 IPC, a fine of Rs.300/- with a default sentence of simple imprisonment for one week (iii) for the offence under Section 338 IPC, simple imprisonment for one month and a fine of Rs.500/- with a default sentence of simple imprisonment for two months and (iv) for the offence under Section 304-A IPC, rigorous imprisonment for six months and a fine of Rs.5,000/- with a default sentence of simple imprisonment for three months?.

3.As against the said judgment of the

learned trial Magistrate, the petitioner preferred an appeal in C.A.No.141 of 2006 on the file of the Sessions Court, Tuticorin.

The learned Additional Sessions Judge, (Fast Track Court No.1) Tuticorin, who heard the appeal, concurred with the finding of the trial Court regarding the occurrence confirmed the conviction of and sentence imposed on the revision petitioner for the offences under Sections 279, 337, 338 and 304-A IPC.

4. Aggrieved by and challenging the confirmation of the conviction and sentence, the petitioner herein has chosen to prefer the present Criminal Revision Case.

5. According to the prosecution case, while P.Ws.1 and 2 and Ganapathi (deceased) were proceeding in a four wheel tyre bullock cart near Nalatinputhur Reliance building on the Madurai ?.

Tirunelveli stretch of national highways, the indica car bearing Regn.No.TN-58-J-6689 was driven by its driver namely, the revision petitioner herein, in a rash and negligent manner, as a result of which it collided with the tyre bullock cart.

Due to the said impact all the three occupants of the bullock cart were thrown from the cart resulting in the death of Ganapathi and grievous injuries to Perumal Konar (P.W.2) and simple injuries to Maruthaiya (P.W.1). 6. In order to prove the case of the prosecution as many as 15 witnesses were examined as P.Ws.1 to 15, 15 documents were marked as Exs.P.1 to P.15 and broken glass pieces were produced as M.O.1 series.

No witness was examined and no document was marked on the side of the revision petitioner/accused.

7. P.Ws.1 and 2 who were the persons accompanying the Ganapathi (deceased) are the eye witnesses to the occurrence.

P.Ws.4 and 5 were the persons who came to the place of occurrence immediately after the accident and only with their assistance, the injured persons were sent to the hospital for treatment.

P.W.10- Dr.Madanagopal has spoken about the autopsy conducted on the body of the deceased Ganapathi and the post mortem examination certificate with the final opinion marked as Ex.P.5.

P.W.8-Motor Vehicle Inspector has given evidence regarding the inspection of the motor vehicle involved in the accident.

The Motor Vehicle Inspector's report and rough sketc.have been marked as Exs.P.9 and 10 and they would show that there was no mechanical defect in the car driven by the revision petitioner and mechanical defect was not the cause of the accident.

Further, Ex.P.6-wound certificate would show that P.W.2 (Perumal Konar) sustained grievous injuries and Ex.P.7-wound certificate would show that P.W.1 (Maruthaiya) sustained simple injuries.

From the said evidence both oral and documentary, it is quite clear that the accident took place due to human error, namely the rash and negligent act on the part of the revision petitioner who was driving the indica car bearing Regn.No.TN-58-J-6689.

It has also been proved by unassailable evidence that Ganapathi died on the spot.

The post mortem examination certificate marked as Ex.P.5 and the evidence of P.W.10 are enough to prove that the death occurred due to the injuries sustained in the accident.

8.Considering all these aspects and upon on a proper appreciation of evidence, the learned trial Court accepted the case of the prosecution and came to the correct conclusion, which cannot be found fault with and which cannot be termed perverse, that the charges of committing the offences under Sections 279, 337, 338 and 304-A IPC made against the revision petitioner/accused stood proved by sufficient evidence beyond reasonable doubt.

The said finding of the trial Magistrate holding the revision petitioner/accused guilty of all the offences with which he stood charged came to be confirmed by the

learned Appellate Judge on re-appreciation of evidence.

9.The trial Court on appreciation of evidence and the appellate Court on re-appreciation of evidence rendered a concurrent finding assigning reasons in support of the conclusion arrived at by the said Courts that all the offences with which the revision petitioner stood charged were proved beyond reasonable doubt.

The said findings of the Courts below cannot be termed either erroneous or defective capable of being reversed by this Court in exercise of its power of revision.

Moreover when two Courts have rendered concurrent findings, unless the High Court on revision comes to the conclusion that the findings are perverse, normally it should not interfere with such findings.

Even otherwise, unless the revision petitioner/accused shows that the Courts below have committed an error either on facts or on law, the findings of the Courts below cannot be interfered with.

This Court, after going through the records, is of the considered view that the Courts below have not committed any mistake or error in rendering a finding holding the revision petitioner/accused guilty of all the offences with which he stood charged.

10.The Courts below cannot be said to have imposed harsher punishment compared to the offences for which the revision petitioner was prosecuted, found guilty and punished.

There is also absence of sufficient ground for interfering on the quantum of punishment also.

There is no merit in the Criminal Revision Case and the same deserves dismissal.

11.In the result, the Criminal Revision Case is dismissed.

The conviction of the revision petitioner for the offences punishable under Sections 279, 337, 338 and 304-A IPC as confirmed by the learned Appellate Judge shall

stand confirmed.

To 1.The Additional District Sessions Judge, Fast Track Court No.1, Thoothukudi
2.The Judicial Magistrate No.1, Kovilpatti

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com