



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL No. _____ of 2024
(@ Special Leave Petition (Crl.) No. 16486 of 2023)

MUTHUPANDI

APPELLANT(s)

VERSUS

STATE

THROUGH THE INSPECTOR OF POLICE,

NILAKOTTAI STATION, DINDIGUL RESPONDENT(s)

J U D G M E N T

K.V. Viswanathan, J.

1. Leave granted.
2. The present appeal calls in question the correctness of the judgment and order dated 05.06.2023 passed by the Madurai Bench of Madras High Court in Crl. R.C. (MD) No. 583 of 2018. The appellant stands convicted for offences punishable under Section 279 and 304(A) of the Indian Penal Code (for short 'IPC'). The Judicial Magistrate, Nilakottai under Section 279

IPC sentenced the appellant by imposing a fine of Rs. 1000/-. For the offence under Section 304(A) of IPC, a sentence of one-year simple imprisonment along with fine of Rs. 5,000/- was imposed. Appropriate default sentences were also imposed. Aggrieved, the appellant challenged his conviction and sentence before the Additional Sessions Judge, Dindigul who confirmed the conviction and sentence imposed by the trial court. On further revision, the High Court, while maintaining the conviction, modified the sentence to that of three months simple imprisonment.

3. When the matter came up on 06.10.2023, the learned Judge in Chambers exempted the appellant from surrendering till the first date of hearing. The interim protection was extended on 06.11.2023. On 13.12.2023, the appellant offered to deposit an amount of Rs. 1,00,000/- (Rupees One Lakh only) towards compensation to the kin of the deceased. The statement was recorded and the interim protection was extended. The amount of Rs. 1,00,000/- since deposited is lying in the fixed deposit in

the court. Thereafter, the learned counsel for the appellant filed an application to implead the legal representatives of the deceased. The notice on the application has been served but no one has entered appearance. We allow the said application and implead the mother of the deceased as a party respondent.

4. We have heard Mr. A. Velan, learned counsel for the appellant and Mr. Sabarish Subramanian, learned counsel for the State. We have perused the records.

5. The case of the prosecution is that on 09.01.2013, at about 05:15 AM, the deceased Karthik and PW-1, PW-2 and PW-3 were taking their cows for grazing. While they were proceeding on the Nilakottai to Madurai road, near Karigalan petrol pump, the appellant drove his lorry in a rash and negligent manner and hit the cows as well as the deceased. In view of the mishap, Karthik died and six cows were also killed. An F.I.R. No. 08 of 2013 dated 09.01.2013 under Sections 279, 304(A) of IPC read with Section 4(1)(A) read with Section 21(1)(A) of the Mines

and Minerals (Development and Regulation) Act was registered since the prosecution had a case that river sand was being carried illegally. The appellant has been acquitted for charges under the Mines and Minerals (Development and Regulation) Act.

6. The prosecution examined PW-1 to PW-17 and marked Exh.P-1 to P-9. The trial court convicted the appellant which was confirmed by the Appellate Court. The High Court in revision only modified the sentence.

7. We have examined the evidence of the eye-witnesses and they are consistent in their story that the appellant drove the lorry in a rash and negligent manner and caused the death of the deceased as well as the six cows. The witnesses have expressly denied the suggestion that the cattle were running on the road afraid of the light and Karthik had died due to the trampling of the cows.

8. Having heard the learned counsel for the parties and carefully perusing the records of the case, we see no reason to

interfere with the conviction under Sections 279 and 304(A) of IPC imposed by the courts below.

9. However, we are inclined to allow the appeal partly on the ground of sentence. The incident is of the year 2013. Eleven years have elapsed since the incident occurred. The appellant has been on bail throughout. It also emerges from the case of the prosecution that the witnesses and the deceased were negotiating about 70 cattle on the road. While we do not absolve the appellant from the act of rash and negligent driving, we certainly want to keep the above factors in mind while considering the sentence. The appellant has deposited a sum of Rs. 1,00,000/- to be payable to the mother of the deceased who is the sole legal heir. Though served, she is not appearing.

10. In view of the special facts of this case, while upholding the conviction, we set aside the sentence of three months simple imprisonment. We also set aside the fine of Rs.1,000/- for the offence under Section 279 of IPC as well as fine of Rs. 5,000/-

for the offence under Section 304(A) of IPC. Instead, while maintaining the conviction, we order that the amount of Rs. 1,00,000/- deposited in this Court along with interest be paid to Mrs. Ponnalaghu W/o Vellaisamy (mother of the deceased), Ramar Kovil Street, M. Vadipatti Post Nilaikottai Taluk, Dindigul, District 624211. This is on account of the loss suffered by her on account of the act of the appellant and we pass this order in exercise of powers under Section 357(3) of the Cr.P.C.

11. The amount of Rs. 1,00,000/- lying in the fixed deposit, along with accrued interest in the registry of this Court will stand transferred to the court of Principal District and Sessions Judge, Dindigul. The Principal District and Sessions Judge shall direct the respondent herein the Inspector of Police, Nilakottai Station, Dindigul to reach out to the mother of the deceased as per the particulars mentioned above. The Principal District and Sessions Judge shall, after being satisfied about the identity, release the amount of Rs. 1,00,000/- along with interest that has accrued to the mother of the deceased.

12. The Principal District and Sessions Judge shall send necessary information with regard to the compliance of the above directions to the Registry of this Court.

13. Let the matter be listed in the last week of February, 2025 for reporting status on compliance.

14. The appeal is partly allowed in the above terms.

.....J.
[B.R. GAVAI]

.....J.
[K. V. VISWANATHAN]

New Delhi;
December 10, 2024.

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THROUGH THE INSPECTOR OF POLICE,
DINDIGUL STATION
RESPONDENT(s)

Dear

Draft judgment in the above-mentioned matter(s) is sent
herewith for perusal and kind consideration.

With warm regards,

Yours sincerely,

(K.V. Viswanathan)

Hon'ble Mr. Justice B.R. Gavai