

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 237 of 2015

Raman

.. Petitioner/PW2

Versus

1.M.Jeyaseelan

2.The State

Inspector of Police
Traffic of Investigation (West)
Coimbatore City
Coimbatore District.
(Crime No.147/2008)

.. Respondents/Accused/Complainant

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 19.08.2014 made in C.C. No. 575 of 2008 on the file of the Judicial Magistrate No.VIII, Coimbatore.

For Petitioner : Mr.S.Gunalan

For Respondents : Mr.C.S.Saravanan
for R.1

Mr.V.Arul
Government Advocate (Crl.Side)
for R.2

ORDER

The first respondent is alleged to have driven the lorry in a rash and negligent manner and dashed against a motorist, as a result of which, the billion rider of the motorcycle fell on the road, the lorry ran over on his head and died at the spot and hence, a case was registered against him in Cr.No.147 of 2008 for the offences punishable under Sections 279, 337 and 304(A) IPC and 134(a) (b) Motor Vehicles Rule r/w. 187 Motor Vehicles Act. The case was taken on file in C.C.No.575 of 2008 on the file of the learned Judicial Magistrate No.VIII, Coimbatore. After trial, by judgment dated 19.08.2014, the first respondent was acquitted by the Trial Court. Aggrieved against the same, P.W.2 has filed this Criminal Revision Case.

2. At this juncture, I have to state that as against the judgment of acquittal passed by the Trial Court only an appeal would lie after the insertion of proviso to Section 372 of Cr.P.C. by the Criminal Procedure Code (Amendment) Act, 2008 (5 of 2009) with effect from 31.12.2009. It is relevant to refer to Section 372 of Cr.P.C.

which reads as follows:-

"372. No appeal to lie unless otherwise provided.-- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

Amendment Act, 2008.-- Clause 29 amends section 372 of the Code relating to appeals from judgment or order of a Criminal Court. It gives to the victim the right to prefer an appeal against any adverse order passed by the trial Court."

3. Having regard to above, this Criminal Revision Case is dismissed. However, the petitioner is given liberty to file an appeal before the appropriate forum viz., District Court, since, as against an order of acquittal the victim is given the right to prefer an appeal against the order passed by the Trial Court after insertion of the proviso to Section 372 of Cr.P.C. by the Criminal Procedure Code (Amendment) Act, 2008 (5 of 2009) with effect from 31.12.2009. When liberty is given by this Court, the Appellate Court shall take into consideration that the petitioner is entitled to get the period of limitation to be excluded during which the Criminal Revision Case is pending before this Court.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

paa

To

1.The Inspector of Police
Traffic of Investigation (West)
Coimbatore City
Coimbatore District.

2.The Judicial Magistrate No.VIII,
Coimbatore.

3.-do- Thro The chief Judicial Magistrate
Coimbatore.

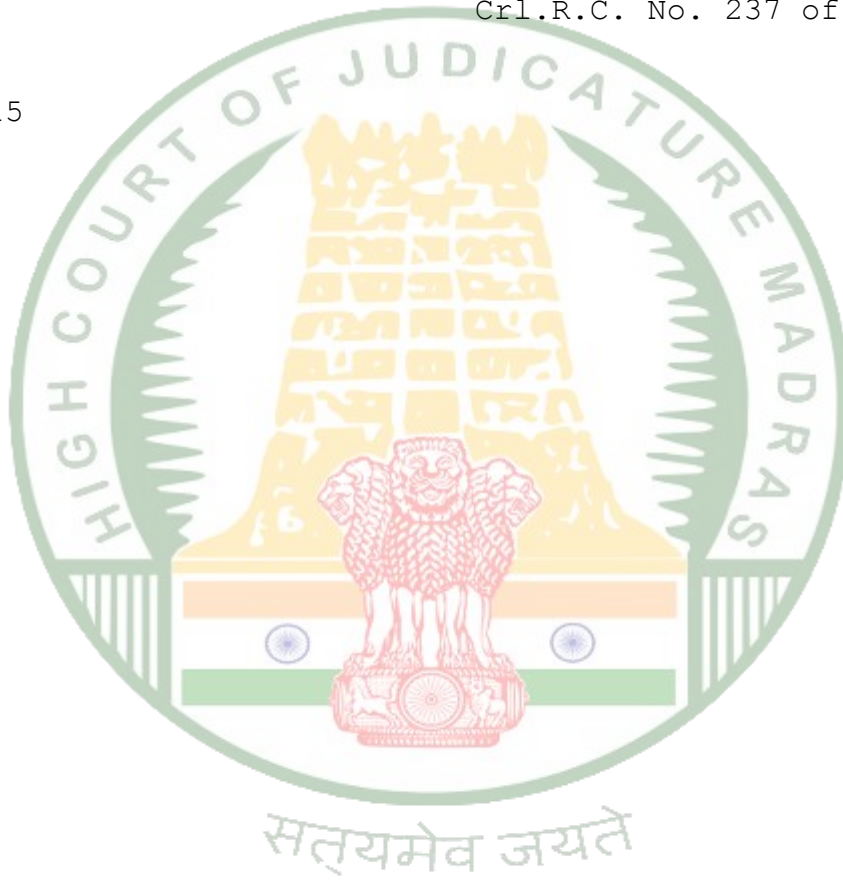
4.The Public Prosecutor, High Court, Madras.

Copy to The Section Officer,
Criminal Section, High Court, Madras.

1 cc to Mr.C.S.Saravanan , Advocate Sr.No.38449/15

Crl.R.C. No. 237 of 2015

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