

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 198 of 2010

Thirumurthy

... Petitioner/Accused

Versus

State

The Inspector of Police
Uthukuli Police Station,
Perundurai, Erode District.
(Crime No.9 of 2003)

... Respondent/Complainant

Criminal Revision Case filed under Sections 397 r/w 401 of Cr.P.C. against the Judgment dated 27.08.2009 made in C.A.No.52 of 2009 on the file of the learned Additional District Judge, Fast Track Court No.I, Erode confirming the Conviction and sentence passed by the District Munsif-cum-Judicial Magistrate, Perundurai in C.C. No. 287 of 2003 dated 13.03.2009.

For Petitioner : Mr.A.K.Kumarasamy

For Respondent : Mr.V.Arul
Government Advocate (Crl.Side)

ORDER

The petitioner stood charged for the offences punishable under Sections 304 (A) (6 counts) of IPC and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo three months rigorous imprisonment and under Section 339 (9 counts) to pay a fine of Rs.1,000/- in default to undergo two months rigorous imprisonment and under Section 337 (10 counts) of IPC to pay a fine of Rs.500/- in default to undergo one month rigorous imprisonment and the sentences were ordered to be run concurrently. The appeal filed by the petitioner questioning his conviction and sentence passed by the trial court was dismissed by the learned District Munsif-cum-Judicial Magistrate, Perundurai on 27.08.2009 against which the present Criminal Revision Case is filed.

2. The case of the prosecution is that on 13.01.2003 at about 3.45 pm, the petitioner had driven the van in a rash and negligent manner in Uthukuli-Sengapalli Road and dashed against the van bearing Registration No.TN 39-T-6881 and caused the death as well as injury to the passengers in both the vehicles. Hence, a case has been registered against the accused. After analysing the oral and documentary evidences available on record, the court below had convicted the accused. Against which, the accused had preferred an appeal and the learned Appellate Court had also confirmed the conviction and sentence imposed on the accused. Aggrieved against the same, the accused had preferred the present Criminal Revision.

3. The learned counsel for the petitioner would mainly contend that the courts below failed to see that all the eye witnesses had made identical statement about the accident. Learned counsel also contended that the court below failed to see that the opposite vehicle was loaded with rice bags and on the above the said rice bags 20 persons were sitting. The said vehicle was loaded with over and above the normal load and hence, the petitioner cannot be attributed solely for the said accident. Therefore, the court below had failed to establish the case in a proper perspective. Under those circumstances, in the absence of any material evidence to show that it is the petitioner, who had driven the offending vehicle at the time of accident, the orders of the Courts below cannot be legally sustainable and he prayed for allowing this Criminal Revision Case.

4. On the other hand, the learned Government Advocate would submit that the petitioner had caused the death of six persons and injury to more than nine persons and he is responsible for the major accident and the prosecution witnesses, viz., P.Ws. 11,12,13, 18 and 19 have categorically stated about the commission of the offence by the petitioner herein.

5. I heard the counsel for both sides and perused the materials placed on record.

6. On a careful perusal of the order of the courts below it is seen that P.Ws.11,12,13, 18 and 19 have clearly spoken about the rash and negligent driving of the petitioner. Further, though there is discrepancy in the evidences of P.Ws.3 and 5, I am of the view that it is only a minor discrepancy and hence, I do not find any reason to interfere with the order of the Courts below.

7. In the result, this Criminal Revision is dismissed confirming the conviction and sentence imposed on the petitioner. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

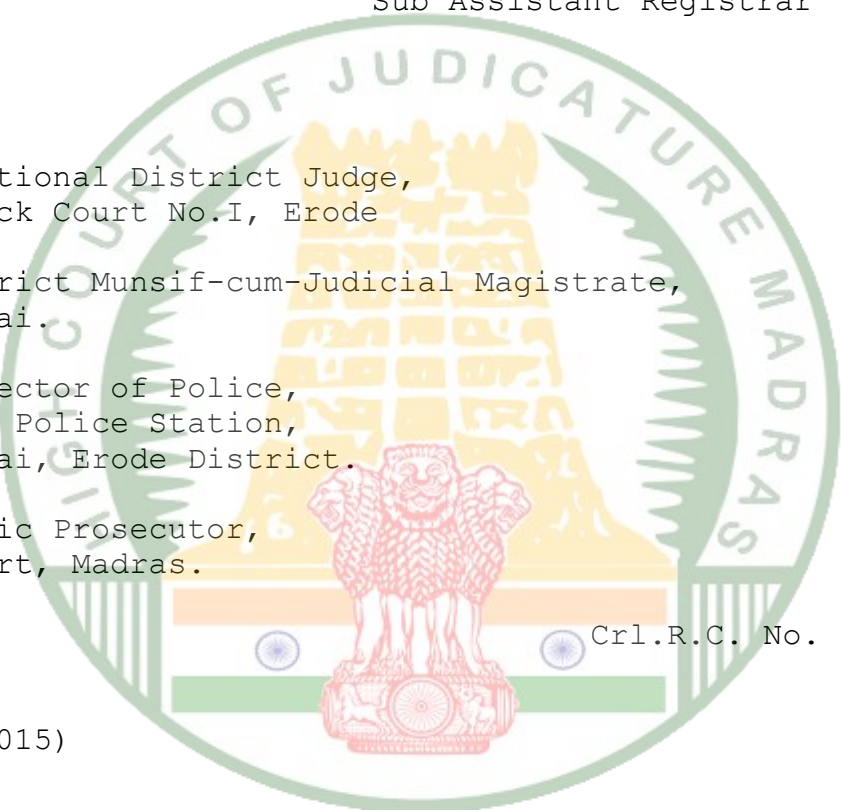
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To

- 1.The Additional District Judge,
Fast Track Court No.I, Erode
- 2.The District Munsif-cum-Judicial Magistrate,
Perundurai.
- 3.The Inspector of Police,
Uthukuli Police Station,
Perundurai, Erode District.
- 4.The Public Prosecutor,
High Court, Madras.

Crl.R.C. No. 198 of 2010

PUR(CO)
CA(27/10/2015)

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The text "HIGH COURT OF JUDICATURE MADRAS" is written in a green circle around the central image. Below the lion capital is the Indian national flag (saffron, white, and green horizontal stripes) with the Ashoka Chakra in the center. At the bottom, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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