

BAIL SLIP

CRL.RC.NO.464/2010

The Petitioner/Appellant namely G.Prakash was directed to be released on bail as per order of this Court dated 29/4/2010 made in Crl.MP.NO.1/2010 in Crl.R.C.No.464/2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2015

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.464 of 2010

G.Prakash

... Petitioner

vs

State represented by
The Inspector of Police
H-1, Washermenpet Police Stationary
Traffic Investigatin Division

.... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned VII Additional Sessions Judge, city Civil Court, Chennai passed in C.A.No.188/2009 confirming the judgment of learned III Metropolitan Magistrate, George Town, Chennai, passed in C.C.No.45 of 2009 on 15.09.2009.

For Petitioner : Mr.A.Thamizharasan

For Respondent : Mr.C.Iyyapparaj, G.A.(Crl)side

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offences u/s.304-A IPC and 184 of the Motor Vehicles Act and sentencing him to undergo 6 months R.I. (two counts) for offence u/s.304-A IPC, and fine of Rs.200/- for offence u/s.184 of the Motor Vehicles Act.

2. The prosecution case is that on 05.11.2008 at about 11.30 p.m, a trailor lorry bearing registration No.TN-28-AC-0840 driven by the petitioner from North to South on Thituvotriyur High road near Kothari Jewellery shop, dashed a motor cycle bearing registration No.TN-03-1847 from behind resulting in the instantaneous death of the driver of the motor cycle as also the pillion rider. A case was registered in Crime No.273 of 2008 on the file of respondent and upon completion of investigation and filing of charge sheet informing commission of offences u/s.304-A, and 184 of the Motor Vehicles Act, the case was tried in C.C.No.45 of 2009 on the file of learned III Metropolitan Magistrate, George Town, Chennai.

3. The prosecution examined seven witnesses and marked twelve exhibits. None were examined on behalf of the defence nor were any exhibits marked. The trial Court, under judgment dated 15.09.2009, convicted the petitioner/accused for offences u/s.304-A IPC and 184 of the Motor Vehicles Act and sentenced him to undergo 6 months R.I. for offence u/s.304-A IPC and fine of Rs.200/- for offence u/s.184 of the Motor Vehicles Act. There against, the petitioner preferred an appeal in C.A.No.188 of 2009 on the file of learned VII Additional Sessions Judge, City Civil Court, Chennai, which came to be dismissed under judgment dated 20.04.2010. Hence, this revision.

4. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

5. This Court is of the view that a finding of conviction wrongly stands arrived at by Courts below. The drunken state of the deceased, rider of the motor cycle, is sought to be explained away by the Appellate Court by stating that such factum alone had not been shown to be the cause of accident. Appellate Court further has sought to explain away the admission of the witnesses P.Ws.1 to 3 that they have not seen the driver of the trailor by informing that it was quite natural that no heavy vehicle driver who cause any serious accident would wait at the occurrence spot but would make good his escape towards avoiding an assault by the public. The very FIR informs of the lorry involved in the accident having been stationary and does not speak of the lorry driver having made good escape by driving away. Whereas, according to the prosecution case P.W.1- Defacto complainant was riding a motor cycle immediately behind that used by the deceased and thus had witnessed the occurrence, his evidence and that of P.W.3 who allegedly were present at the scene of occurrence, is contradictory. P.W.1 has informed of rain at the time of accident, P.W.3 informs otherwise. P.W.2 and another alleged witnesses to the occurrence, have spoken to the presence of the Police within fifteen minutes thereof. The occurrence allegedly took place at 11.00 p.m on 05.11.2008.

Ex.P.1- complaint allegedly was preferred by P.W.1, brother of one of the deceased at 7.30 a.m on 06.11.2008. The same has reached the court only at 3.45 p.m on 06.11.2008. In the said circumstances, the only basis for conviction would be the report of P.W.5-Motor Vehicle Inspector to the effect that the petitioner was the driver of the lorry. According to P.W.2, the police reached the scene within fifteen minutes of the occurrence. The presence of P.W.1 at the scene of occurrence and in the manner stated by him also is unlikely given the contradiction between his deposition and that of P.W.3 regards it having rained at the time of accident. From the postmortem report it is apparent that the rider of the motorcycle was under the influence of alcohol. The possibility of accident having taken place owing to such position cannot be ruled out.

6. For the aforesaid reasons, this Criminal Revision is allowed. The judgments of Courts below are set aside. Petitioner is acquitted of all charges. Fine amount, if any, paid by petitioner shall be refunded to him. Bail bond, if any, executed by him shall stand cancelled.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The 3rd Metropolitan Magistrate
George Town, Chennai

2.The Chief Metropolitan Magistrate
Egmore Chennai

3.The Principal Sessions Judge,
Puducherry

4. The Inspector of Police
H-1 Washermenpet Police Station,
Traffic Investigation Division

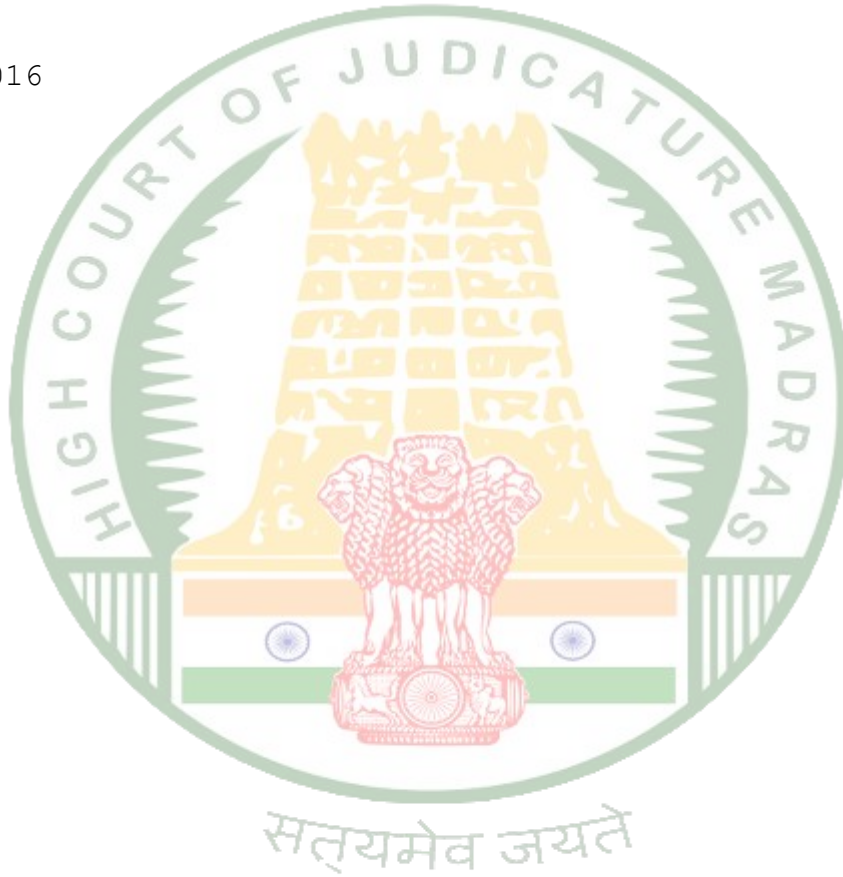
5.The Public Prosecutor,
High Court
Chennai

6. The VII Additional Sessions Judge,
City Civil Court, Chennai

7.The Superintendent
Central Prison,
Puzhal, Chennai

CrI.R.C.No.464 of 2010

ev(co)
aa16/03/2016



WEB COPY