

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.R.C.No.996 of 2009

S.Kumar

.. Petitioner

vs.

State Rep. By
Inspector of Police
Valapadi Police Station
Valapadi
(Crime No.616/2006)

.. Respondent

Criminal Revision filed under sections 397 and 401 Cr.P.C. to set aside the orders in Criminal Appeal No.71 of 2009 on the file of Additional District and Sessions Judge, Fast Track Court No.I, Salem dated 17.09.2009 confirming the judgment and decree in C.C.No.40 of 2007 dated 06.07.2009 on the file of the Judicial Magistrate No.6, Salem.

For Petitioner : Mr.C.S.Dhanasekaran
for Mr.S.Mani

For Respondent : Mr.D.Sivaramkumar
Govt. Advocate (Cr1.side)

सत्यमेव जयते
O R D E R

This revision arises against the judgment of the learned Additional District and Sessions Judge (Fast Track Court I), Salem passed in C.A.No.71 of 2009.

2. A case in Crime No.616 of 2006 was registered on the file of the respondent consequent to an accident wherein one person lost his life. It is the prosecution case that on 30.09.2006, at about 18.40 hours, the petitioner, a State Transport bus driver drove the bus bearing Registration No.TN27 N 1560 in a rash and negligent manner on the Salem - Attur Main Road and hit a cyclist, who died on the way to his being taking to hospital. A charge sheet was filed informing commission of

offence under Sections 279 and 304A IPC. A case was tried in C.C.No.40 of 2007 on the file of Judicial Magistrate VI, Salem.

3. The prosecution examined 12 witnesses and marked 8 exhibits. None were examined on behalf of the defence nor were any exhibits marked. The trial Court rendered a finding of conviction and sentenced the petitioner to undergo 6 months S.I. for offence u/s.279 IPC and 2 years S.I. for offence under Section 304(A) IPC, sentences to run concurrently. The appeal of the petitioner in C.A.No.71 of 2009 was dismissed and the sentences imposed was confirmed under judgment of the Additional District Judge, Fast Track Court I, Salem dated 17.09.2009. Thereagainst, this revision.

4. Heard learned counsel for petitioner and learned Government Advocate (Crl.side).

5. This revision is to be allowed for the following reasons:
1. The occurrence allegedly took place at 06.40pm on 30.09.2006. The complaint has been preferred at 05.15 a.m on the next day viz., 01.10.2006. The complainant is PW1, an alleged eye witness, is the nephew of the deceased. In his 161(3) Cr.P.C statement, it is stated that he, upon witnessing the accident, had called the family members of the deceased and upon their arrival as also that of an ambulance, the deceased was sent to the Salem Government Hospital and that he too had gone over there. In his deposition before Court, he has not spoken to going over to the hospital. On the other hand, he had informed of having gone away after causing the deceased to be taken to hospital. The evidence of Pws 2 and 3, the other alleged eye witnesses is contradictory on the direction in which the bus driven by the petitioner was headed - while, PW2 would state that the bus was proceeding from East to West, PW3 would inform the exact opposite. The above aspects render doubtful the presence of Pws 1 to 3 at the scene.
 2. The very manner in which the accident was occasioned becomes doubtful since the cycle, which was ridden by the deceased, has not been seized. It is also seen that the conductor of the bus has not been examined.
 3. Pws 7 and 10, have admitted to affixing the signature on the observation mahazar as witnesses only at the police station.

In the aforesaid circumstances, the petitioner/accused is entitled to the benefit of doubt.

Accordingly, this criminal revision is allowed and the findings of the Courts below shall stand set aside. Petitioner is acquitted of all charges. Bail bonds, if any, executed by the petitioner shall stand cancelled.

-s/d-
Assistant Registrar(CSVII)

True Copy

Sub-Assistant Registrar

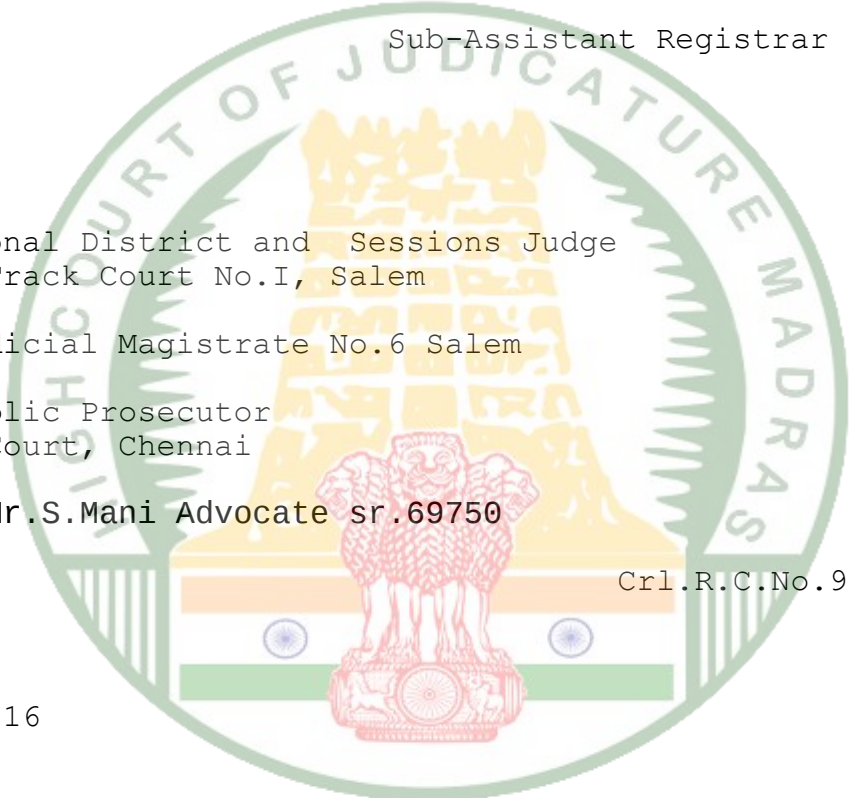
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To

1. Additional District and Sessions Judge
Fast Track Court No.I, Salem
2. The Judicial Magistrate No.6 Salem
3. The Public Prosecutor
High Court, Chennai

+1 cc to Mr.S.Mani Advocate sr.69750

Crl.R.C.No.996 of 2009

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The seal of the High Court of Judicature Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red elephant capital. The entire emblem is set against a background of the Indian national flag's saffron, white, and green horizontal stripes. The words 'HIGH COURT OF JUDICATURE MADRAS' are written in a green arc around the top of the emblem. At the bottom, the Sanskrit motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

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