

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.508 of 2010

T.Ramesh

.. Appellant/Appellant/
Accused

vs.

State represented by
Inspector of Police,
J3 Guindy Traffic Investigation
Chennai.

Crime No.303 of 2006

.. Respondent/Respondent/
Complainant

Criminal Revision filed under section 397 and 401 Cr.P.C. against the judgment of learned V Additional Sessions Judge, Chennai, passed in C.A.No.115 of 2009 on 01.03.2010, confirming the judgment of learned IV Metropolitan Magistrate, Saidapet, Chennai, passed in C.C.No.5888 of 2006 dated 01.03.2010.

For Petitioner : Mr.P.R.Balasubramanian

For Respondent : Mr.C.Iyyapparaj

Government Advocate [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, and 184 of the Motor Vehicles Act and sentencing him to undergo 1 year S.I. for offence u/s.304-A IPC and a fine of Rs.5,000/- i/d 3 months S.I and fine of Rs.1000/- i/d 1 month S.I. for offence u/s.184 of the Motor Vehicles Act.

2. The prosecution case is that on 08.07.2006 at about 11.00 p.m, the petitioner rashly had driven a tanker lorry bearing registration No.TCF-3839 and hit a motorist as a result of which the motorist sustained grievous injuries and despite treatment died. A case was registered in Crime No.303 of 2006 on the file of respondent and upon completion of investigation and filing of charge sheet informing commission of offences u/s.304-A IPC and 184 of the Motor Vehicles Act, the case was tried in C.C.No.5888 of 2006 on the file of learned III Metropolitan Magistrate, George Town, Chennai.

3. To prove its case, the prosecution examined twelve witnesses and marked thirteen exhibits. None were examined on behalf of the defence nor were any exhibits marked. The trial Court, under judgment dated 12.06.2009, convicted the petitioner/accused for offences u/s.304-A IPC and 184 of the Motor Vehicles Act and sentenced him to 1 year S.I. for offence u/s.304-A IPC and fine of Rs.5,000/- i/d 3 months S.I and fine of Rs.1000/- i/d 1 month S.I. for offence u/s.184 of the Motor Vehicles Act. There against, the petitioner preferred an appeal in C.A.No.115 of 2009 on the file of learned Additional Sessions Judge V, Chennai, which came to be dismissed under judgment dated 01.03.2010. Hence, this revision.

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

5. Learned counsel for petitioner submitted that none of the eye witnesses informed by the prosecution viz., P.Ws.1 to 3 had spoken to the rash and negligent driving of the lorry by the petitioner. The accident had occurred owing to the motorist trying to avoid a pothole on the road by suddenly moving to his right and thereby coming into contact with the lorry driven by the petitioner. The evidence of P.W.2 was to the effect that the lorry had become stationary at the very accident spot. This was indicative of the fact that the petitioner had not driven the lorry in a rash and negligent manner and the accident had taken place only in unavoidable circumstance.

6. Heard learned Government Advocate (Crl.side) on the above submissions.

7. The accident had taken place at 11.00 p.m. on a major arterial 100 feet road. It is the evidence of P.W.2 that one would have manouvered to the right to avoid a big pothole on the road, at the accident site. P.W.1 admits to the deceased having been at the middle of the road. The defence version of the accident having been occasioned owing to the motor cycle suddenly sweering to the right towards avoiding the pot hole is quite acceptable. That the lorry was not driven in a rash and negligent manner is apparent from the evidence of P.W.3 to the effect that the lorry had been rendered stationary at the very accident spot. None of the witnesses have spoken to rash and negligent driving of the petitioner. In the circumstances benefit of doubt would have to be afforded to him.

8. 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 shall stand cancelled.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Additional Sessions Judge,
Fast Track Court V, Chennai.

2.The IV Metropolitan Magistrate,
Saidapet, Chennai.

3.The Inspector of Police,
J3 Guindy Traffic Investigation
Chennai.

4.The Public Prosecutor,
High Court, Madras.

+ 1 cc to MR. P.R. Balasubramanian, Advocate Sr.176

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ALA(CO)
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