

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2016

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.537 of 2010

Srinivasan
S/o.Manoharan

.. Petitioner

vs.

State by
Inspector of Police
G-4, Redhills Police Station
Thiruvallur District
(Cr.No.412 of 2004)

.. Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C. against the judgment of learned Additional District Judge, Fast Track Court IV, Ponneri in C.A.No.1 of 2010 dated 29.04.2010 modifying the judgment passed by the learned Judicial Magistrate II, Ponneri in C.C.No.300 of 2005 on 10.12.2009.

For Petitioner : Mr.V.Balu

For Respondent : Mrs.M.F.Shabana
Government Advocate [Crl.side]

O R D E R

This revision arises against the judgment of learned Additional District and Sessions Judge, Fast Track No.IV, Pooneri, passed in C.A.No.1 of 2010 on 29.04.2010 confirming the judgment of learned Judicial Magistrate II, Ponneri, passed in C.C.No.300 of 2005 on 10.12.2009.

2. The prosecution case is that the accused, driver of lorry bearing Registration No.A-E-T-1674 drove the same in a rash and negligent manner and hit one Pandurangan, who came in a two-wheeler and caused his death on 06.08.2004 at 15.00 hours. A case was registered in Crime No.412 of 2004 on the file of respondent and upon completion of investigation and filing of charge sheet informing commission of offences u/s.279 and 304-A

IPC, the case was tried in C.C.No.300 of 2005 on the file of learned Judicial Magistrate II, Ponneri.

3. To prove its case, the prosecution examined ten witnesses and marked nine exhibits. None were examined on behalf of the defence nor were any exhibits marked. The trial Court, under judgment dated 10.12.2009, convicted the petitioner for offences u/s.279 and 304-A IPC and sentenced him to 3 months S.I. and fine of Rs.1000/- i/d 1 month S.I. for offence u/s.279 IPC and 1 year R.I. and fine of Rs.5,000/- i/d 3 months S.I. for offence u/s.304-A IPC. There against, the petitioner preferred an appeal in C.A.No.1 of 2010 on the file of learned Additional District and Sessions Judge cum Fast Track Judge IV, Ponneri. Appellate Court, under judgment dated 29.04.2010 modified the sentence to one of 1 month S.I. in respect of offence u/s. 279 IPC and 3 months S.I for offence u/s.304-A IPC. Fine imposed by the trial Court was confirmed. Appellate Court directed that the sentences run concurrently. Against such finding, the present revision has been filed.

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

5. This revision is to be allowed for the following reasons:

1. PW1 has deposed to having been the driver of the motorcycle and the deceased having ridden pillion when the occurrence took place. PW1, despite allegedly having been thrown off the motorcycle, had suffered no injury whatsoever.
2. PW7, another alleged eyewitness has informed of PW1, the deceased, one another and himself having gone over to the Regional Transport Office by three motorcycles. It is his evidence and opposed to that of PW1 that the deceased was independently riding a motorcycle. It is his evidence as also that of PW1 that they had been to the Regional Transport Office for collection of the deceased's Driving Licence. It is the further evidence of PW1 that he, the deceased, PW1 and PW3 were all working at one and the same place. PW2, an alleged eye witness and significantly a person, who is not a co-employee of the deceased, has turned hostile. Therefore, the contention of the defence that Pws 3 and 7 were not eyewitnesses to the occurrence and further contention that none of them have identified the petitioner, who is the driver of the lorry merits acceptance.

This Criminal Revision is allowed. The judgment of learned Additional District and Sessions Judge, Fast Track Court IV, Ponneri, passed in C.A.No.1 of 2010 on 20.04.2010 modifying the judgment of learned Judicial Magistrate II, Ponneri, passed in C.C.No.300 of 2005 on 10.12.2009, is set aside. Petitioner is acquitted of all charges. Fine amount, if any, paid by petitioner

shall be refunded to him. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gpa

To

1. The Judicial Magistrate II, Ponneri
2. do thro the Chief Judicial Magistrate
Tiruvallur
3. The Additional District and Sessions Judge
Fast Track Court IV, Ponneri
4. The Inspector of Police
G-4, Redhills Police Station
Thiruvallur District
- 5.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.V. Balu, Advocate, sr. 3085

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