

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.883 of 2010

Ravi

S/o.Jayaraman

... Petitioner/Accused

vs

State represented by
Inspector of Police,
Guduvancherry Police Station,
Chengalpattu District.
Crime No.208 of 2001

... Respondent/Complainant

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned Additional District Judge, Fast Track Court I, Chengalpattu, passed in C.A.No.164 of 2005 on 17.08.2010 confirming the judgment of learned Judicial Magistrate II, Chengalpattu, passed in C.C.No.111 of 2002 on 21.10.2005.

For Petitioner : Mr.G.Anabaya Chozhan

For Respondent : Mr.C.Iyyapparaj
Government Advocate (Crl.side)

O R D E R

सत्यमेव जयते

This revision is preferred against two concurrent judgments of the Courts below convicting the petitioner for offences u/s.279, 337(4 counts), 338 (2 counts) and 304-A (4 counts) IPC and sentencing him to fine of Rs.1,000/- i/d 2 months R.I. for offence u/s.279 IPC, fine of Rs.2,000/- i/d 6 months R.I. for offence u/s.337 IPC (4 counts) and fine of Rs.2,000/- i/d. 3 months R.I. for offence u/s.338 IPC (2 counts) and 2 years R.I. for offence u/s.304-A (4 counts) IPC.

2. The prosecution case was that the petitioner, a driver with State Transport Corporation, drove a bus in a rash and negligent manner and dashed persons on the road, owing to which

two died and some suffered injuries on 12.05.2001 at about 09.15 a.m. A case in Crime No.208 of 2011 on the file of respondent was registered. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.279, 337, 338 and 304-A IPC, the case was tried in CC.No.111 of 2002 on the file of learned Judicial Magistrate II, Chengalpattu.

3. Before the trial Court, the prosecution examined 21 witnesses and marked 29 exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of evidence, the trial Court entered a finding of conviction and sentenced the petitioner to pay fine of Rs.1,000/- i/d 2 months R.I. for offence u/s.279 IPC, fine of Rs.2,000/- i/d 6 months R.I. for offence u/s.337 IPC (4 counts) and fine of Rs.2,000/- i/d. 3 months R.I. for offence u/s.338 IPC (2 counts) and 2 years R.I. for offence u/s.304-A (4 counts) IPC. There against petitioner moved C.A.No.164 of 2005 on the file of learned Additional District Judge, Fast Track Court I, Chengalpattu, which came to be dismissed under judgment dated 17.08.2010. Hence, this revision.

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

5. The case of the prosecution that the petitioner drove the bus in such rash and negligent manner, that it crossed the central median on the highway and reached the inner end on the opposite side, hit persons causing injuries and death, is falsified by the evidence of PW-3, who has suffered injuries in the accident as also that of PW-4. PW-3 specifically has deposed that the accident did not take place in the manner put forth by the prosecution but, owing to work being carried out on the road, all the buses had been diverted across the median to the right of the road. All buses were plying fast in similar manner when the accident took place. Though PW-3 has denied that the accident occurred owing to the petitioner trying to avoid hitting a cyclist, who came in the way of the bus, such position is admitted by PW-4 and other injured witnesses. The investigating officer has also admitted to buses having been made to ply on one side of the road owing to the closure of the other. In the circumstances where the very basis of the prosecution case suffers a beating through the evidence of injured witnesses as also the investigating officer, the petitioner is to be afforded the benefit of doubt.

The Criminal Revision stands allowed and judgment of learned Additional District Judge, Fast Track Court I, Chengalpattu, passed in C.A.No.164 of 2005 on 17.08.2010 confirming the

judgment learned Judicial Magistrate II, Chengalpattu, passed in C.C.No.111 of 2002 on 21.10.2005, is set aside. Petitioner is acquitted of all charges in the case. Fine amount, if any, paid by petitioner shall be refunded to him. Bail bonds, if any, executed by petitioner shall stand cancelled.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gm
To

1. The Judicial Magistrate-I, Chengalpattu.
 - 2.-do- Through The Chief Judicial Magistrate, Chengalpattu.
 - 3.The Additional District Judge,
Fast Track Court I,
Chengalpattu.
 4. -do- Through The Principal Sessions Judge, Chengalpattu.
 - 5.The Inspector of Police,
Guduvancherry Police Station,
Chengalpattu District.
 6. The Superintendent Central Prison, Puzhal, Chennai.
 - 7.The Public Prosecutor,
High Court, Madras.
 8. The Superintendent, Central Prison, Puzhal, Chennai.
- + 1 cc to Mr. Anabaya Chozhan, Advocate Sr.4602

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MG(CO)
Eu 08.03.16