

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2017

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.15 of 2011

Prabhu
S/o.Perumal

... Petitioner

vs

The State represented by
Inspector of Police,
Idappadi Police Station,
Salem District.
Crime No.214 of 2007

... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned Additional District and Sessions Court (Fast Track Court I), Salem, passed in Crl.A.No.94 of 2010 on 18.09.2010 confirming the judgment of learned Judicial Magistrate II, Sankari, passed in C.C.No.50 of 2007 on 10.05.2010.

For Petitioner : Mr.C.Kulanthaivel

For Respondent : Mr.V.Arul

Additional Public Prosecutor

ORDER

This revision arises against two concurrent judgments of Courts below convicting petitioner for offence u/s.304-A IPC and 39 r/w 192 (1) of Motor Vehicles Act and sentencing him to 1 year S.I. and fine of Rs.1,000/-.

2. Prosecution case is that on 04.05.2007 at about 08.00 a.m.,

petitioner/accused drove his motor cycle in a rash and negligent manner and dashed against the deceased, who was riding a cycle and caused grievous injuries, owing to which the deceased, despite treatment, died. A case was registered in Crime No.214 of 2007 on the file of respondent. 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.50 of 2007 on the file of learned Judicial Magistrate II, Sankari.

3. Before trial Court, prosecution examined 12 witnesses and marked 8 exhibits. None were examined on behalf of defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 10.05.2010, convicted petitioner/accused for offence u/s.304-A IPC and sentenced him to 1 year S.I. and fine of Rs.1,000/-. There against, petitioner/accused preferred C.A.No.94 of 2010 on the file of learned Additional District and Sessions Judge, Salem, which came to be dismissed under judgment dated 18.09.2010. Hence, this revision.

4. Heard learned counsel for petitioner and learned Additional Public Prosecutor.

5. PW-1 is the daughter of deceased. She has informed of being an eye

witness since she was riding a cycle behind her father, the deceased, when the petitioner overtook her and hit the cycle which her father was riding and thereby caused his death. PWs.1 to 3 inform of the accident having taken place at a junction on the Edappadi to Poolampatti road. It is the evidence of PWs.11 and 12, Investigation Officers, that the accident took place before Navasakthi Matriculation School. While PW-1 has informed of information regards the accident having been recorded by police from her when her father was under treatment at the hospital of one Dr.Pachaimuthu, it is the evidence of PW-12 that PW-1 had not informed him of the deceased having been subjected to treatment at the hands of Dr.Pachaimuthu or thereafter at the hands of one Dr.Sundarrajan. Both PWs.11 and 12 specifically had denied the claim of PWs.1 to 3 that the accident occurred at a junction on the road. Given such discrepancy, there is every reason to doubt the veracity of the prosecution case and particularly, the presence of PW-1 at the scene as a witness to the occurrence.

The Criminal Revision Case shall stand allowed. The judgment of learned Additional District and Sessions Court (Fast Track Court I), Salem, passed in CrI.A.No.94 of 2010 on 18.09.2010 confirming the judgment of learned Judicial Magistrate II, Sankari, passed in C.C.No.50 of 2007 on 10.05.2010, shall stand

C.T.SELVAM, J

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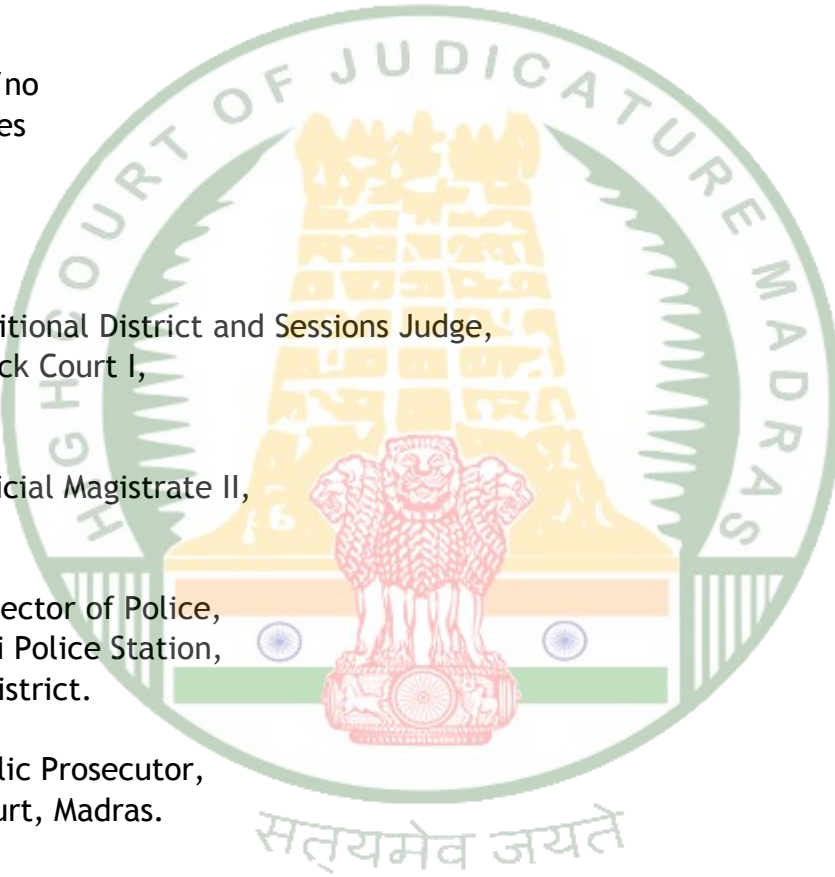
set aside. Petitioner is acquitted of all charges. Fine, if any, paid shall be refunded. Bail bonds, if any, executed shall stand cancelled.

15.09.2017

Index:yes/no
Internet:yes
gm

To

- 1.The Additional District and Sessions Judge,
Fast Track Court I,
Salem.
- 2.The Judicial Magistrate II,
Sankari.
- 3.The Inspector of Police,
Idappadi Police Station,
Salem District.
- 4.The Public Prosecutor,
High Court, Madras.



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