

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :16.08.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1159 of 2010

R.Dharmaraj @ Manoharan

...Petitioner/Accused

Versus

The State

Rep. By Inspector of Police,
Pollachi Taluk Police Station.

...Respondent/Complainant

The Criminal Revision Petition is filed under Section 397 read with 401 Cr.P.C., against the judgment dated 18.10.2010 passed in Crl.A.No.136 of 2010 by learned I Addl. District and Sessions Judge, Coimbatore, confirming the Judgement made in C.C.No.33 of 2009 dated 10.06.2010 by the learned Judicial Magistrate-II, Pollachi.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondent : Mr.V.Arul
Additional Public Prosecutor

O R D E R

This Criminal Revision has been filed against the judgment dated 18.10.2010 passed in Crl.A.No.136 of 2010 by learned I Addl. District and Sessions Judge, Coimbatore, confirming the Judgement made in C.C.No.33 of 2009 dated 10.06.2010 by the learned Judicial Magistrate-II, Pollachi.

2. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondent.

3. The petitioner faced trial for offences under Sections 337 and 304(A) IPC in a case tried in C.C.No.33 of 2009. He was convicted for such offences and sentenced to a fine of Rs.400/- in default 3 months Simple Imprisonment for an offence under Section 337 IPC, 6 months Simple Imprisonment for an offence under section 304(A) IPC. The petitioner preferred an Appeal in Crl.A.No.136 of 2010 and the Appellate Court confirmed the judgement of trial Court and dismissed the Criminal Appeal. Aggrieved by the same, the petitioner has

preferred present Revision.

4. The case of the prosecution is that the petitioner was a driver of a private bus bearing Registration No.TN 41-R-8343 which suffered an accident on 18.11.2008 at 5.00.p.m. The bus, driven by the petitioner, hit a motor cycle, driven by PW-1, as a result of which, his wife, who was riding pillion, died on the spot. PW-1 suffered minor injuries. The prosecution examined nine witnesses and marked Ex.P1 to P10. None were examined on the side of the defence nor were any exhibits marked.

5. The case of the prosecution stands rests on the sole testimony of PW-1/husband of the deceased, since none others have been examined as eye witnesses. PW-1 had spoken to the accident resulting in the death of his wife and his suffering. However, he has not spoken to any rash and negligent conduct on the part of the petitioner. Both offences under Sections 304(A) and 337 IPC would be attracted only when rash and negligent conduct on the part of the accused is proved.

6. Given such position, this Revision Petition shall stand allowed. The judgment of learned I Additional District and Sessions Judge, Coimbatore, passed in C.A.Nos.136 of 2010 on 18.10.2010 confirming the judgment of learned Judicial Magistrate-II, Pollachi, passed in C.C.No.33 of 2009 on 10.06.2010, shall stand set aside. Petitioner is acquitted of all charges. Bail bonds, if any, executed by him shall stand cancelled.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Pollachi Taluk Police Station.
 2. The I Additional District and Sessions Judge,
Coimbatore.
 3. The Judicial Magistrate-II,
Pollachi.
- +1cc to Mr.B.Nedunchezhiyan, Advocate, S.R.No.56864

Cr1. R.C. No. 1159 of 2010

SJ(CO)
GN(02/11/2017)