

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL RC No.1053 of 2018

Jagathambal

... Petitioner/Complainant

Vs.

State of Tamil Nadu
Rep. by its Inspector of Police
Erode Nagar Police Station

... Respondent/ Respondent

PRAYER: Criminal Revision petition has been filed under Sections 397 read with 401 of Criminal Procedure Code, praying for setting aside the order dated 17.11.2016 made in R.C.S.No.52 of 2016 on the file of the Chief Judicial Magistrate, Erode.

For Petitioner : Mr.A.Sundaravadhanan
For Respondent :S.Thankira
Government Advocate

O R D E R

The Revision petitioner has filed this criminal revision against the order dated 17.11.2016 made in R.C.S.No.52 of 2016, on the file of the Chief Judicial Magistrate, Erode, wherein the said petition was dismissed for non appearance of the parties. Against which the present revision has been preferred.

2.The sum and substance of the case is as follows;

The deceased viz., Mr.Vellingiri, the husband of the petitioner died on 13.03.2015 due to the accident. When the deceased was driving his TVS-50, the driver of the Innova Car bearing No.TN-33AK2244 hit the deceased and caused accident due to his rash and negligent driving. The deceased was admitted in the hospital and due to fatal injury, the victim died on 21.03.2015.

3.Thereafter, the law enforcing agency registered an FIR under Crime No.183 of 2015, the respondent police filed a case before the R.C.S.No.52 of 2016, wherein, they found that the vehicle involved in the accident is a two wheeler and not the Innova Car as stated by the petitioner.

4. In view of the improper investigation, the petitioner has filed a protest petition before the Trial Court and the same was called on 17.11.2016, no one represented on behalf of the petitioner. Hence, the Trial Court considered the petition and found no merits on the protest petition and accordingly closed the protest petition, against which, the present criminal revision has been preferred.

5. The learned counsel appearing for the petitioner would submit that the husband of the petitioner viz. deceased met with an accident due to the rash and negligent driving of the Innova Car bearing No.TN 33 AK 2244. The law enforcing agency after obtaining the statement from the witnesses filed a report stating that the Innova Car bearing No.TN 33 AK 2244 was not involved in the accident, it is a two wheeler which caused accident. If the prayer of the protest petition is taken on file and proper investigation is ordered, the petitioner shall have more opportunity to file a petition before the Motor Accidents Claims Tribunal and shall claim compensation from the insurance company. Accordingly, prays for allowing this criminal revision petition.

6. The learned Government Advocate would submit that the petitioner may be given one more opportunity and this Court shall also fix a date for completion of the proceedings. Since the matter is pending from 2016.

7. Considering the facts and circumstances of the cases, it is clear that the Trial Court has passed an order in the absence of the petitioner, I am inclined to allow this petition, by fixing an outer limit to dispose of the protest petition.

8. The petitioner is hereby directed to appear before the Trial Court either party in person or through his counsel on 03.10.2018. On the said day, the petitioner has to argue the case. After hearing the arguments, the Trial Court has to pass an appropriate order on the same day.

9. With the above direction, this Criminal Revision stands allowed. The order dated 17.11.2016 made in R.C.S.No.52 of 2016 on the file of the Chief Judicial Magistrate, Erode is set aside. Consequently, connected Crl.M.P. if any is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Judicial Magistrate, Erode.

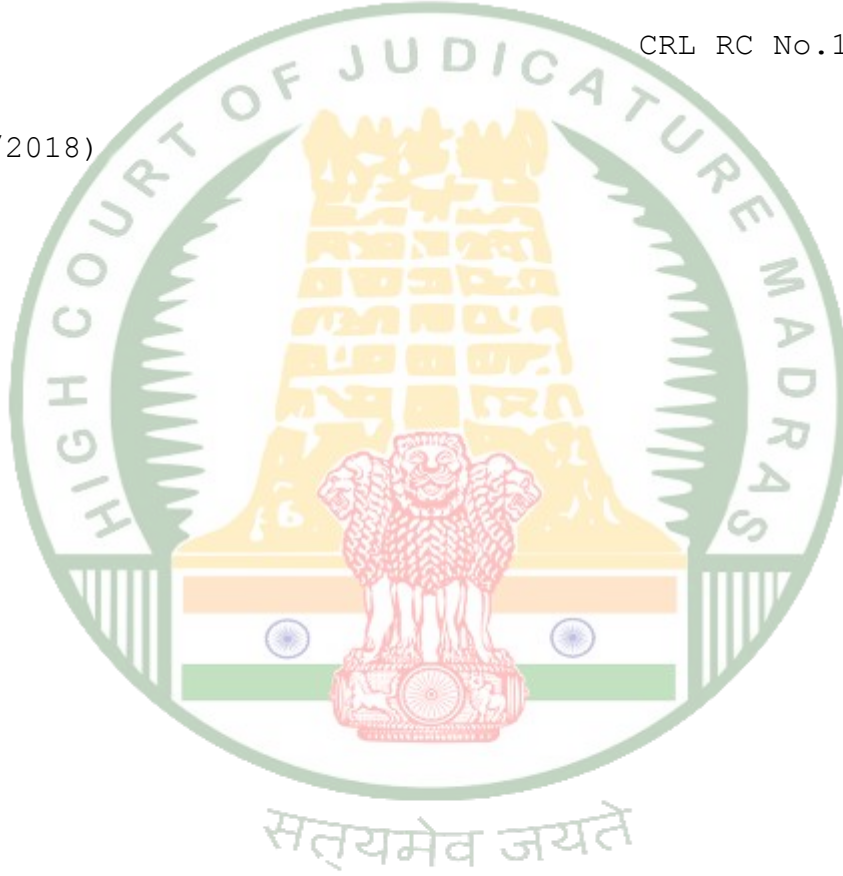
2.The Inspector of Police,
Erode Nagar Police Station

3.The Public Prosecutor,
High Court, Madras

+lcc to Mr.A.Sundaravadhanan, Advocate, S.R.No.64261

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GSP(18/09/2018)



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