

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.686 of 2018
and
Crl.M.P.Nos.7946 and 7948 of 2018

Gowtham Chand Jain ...Petitioner/Appellant/Accused

..Vs..

The State rep.by,
The Sub-Inspector of Police,
H-1, Washermanpet Police Station,
Traffic Investigation Team,
Chennai ...Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the judgment of conviction passed against the revision petitioner by the learned XVIII Additional Sessions Judge, Chennai in C.A.No.172 of 2017 dated on 07.11.2017 confirming the judgment of learned III Metropolitan Magistrate, George Town, Chennai in C.C.No.2983 of 2016 dated 16.06.2017 and thereby acquit him for all charges.

For Petitioner : Mr.J.Suresh

For Respondent : Mr.R.Surya Prakash
Govt.Advocate (Crl.side)

O R D E R

By consent of both parties, the main case itself is taken up for final disposal.

2. The learned counsel for the petitioner has submitted that the Advocate on record before the Lower Appellate Court has wrongly noted the hearing date of the case. Thus, he could not appear for the hearings on 20.10.2017, 25.10.2017 and 01.11.2017 which had resulted in the dismissal of the appeal, without hearing the parties on either side thereby passed an exparte order.

3. The petitioner was convicted and sentenced to undergo one year Rigorous Imprisonment for an offence under Section 304(A) I.P.C and to pay a fine of Rs.5000/- in default to undergo one month simple imprisonment and fine of Rs.1000/- for offence under Section 338 IPC in default to undergo two weeks simple imprisonment and to pay a fine of Rs.1000/- for offence under Section 184 of Motor Vehicles Act in default to undergo two weeks simple imprisonment.

4. Due to non-appearance of the petitioner before the appellate Court the judgment was pronounced exparte and therefore, a non-bailable warrant is pending against the petitioner. Further, since there are arguable points involved for consideration an opportunity is necessary for the petitioner to contest his case on merits.

5. The grounds stated by the petitioner are sustainable. Thus, the Criminal Revision Petition is allowed and the judgment passed by the lower Appellate Court, dated 07.11.2017 in CrI.A.No.172 of 2017 in C.C.No.2983 of 2016 is set aside and the matter is remitted back to the lower Appellate Court viz., XVIII Additional Sessions Judge, Chennai for reconsideration on merits and after giving an opportunity to the petitioner the case shall be disposed of on merits. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

1. The XVIII Additional Sessions Judge, Chennai
2. Thro' The principal Judge, City Civil Court, Chennai
3. The III Metropolitan Magistrate, George Town, Chennai
4. Thro' The Chief Metropolitan Magistrate, Saidapet, Chennai
5. The Section Officer, Criminal Section, High Court, Madras
(The matter is remitted back so records sent to lower Appellate Court)

+1cc to Mr.J.Suresh, Advocate SR.No.53201

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CrI.M.P.Nos.7946 and 7948 of 2018

RK(CO)
SMI/21.08.2018