



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2018

Coram

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.R.C.No.64 of 2009

Thangaraj

... Petitioner

Vs.

1.State rep. By

The Inspector of Police
C-1, Flower Bazaar Police Station
Chennai 600 001

2.Assistant Divisional Engineer

Building Maintenance
Flower Bazaar Telephone Exchange Building
B.S.N.L. N.S.C.Bose Road
Chennai 600 001

... Respondents

PRAYER:

Petition filed under Section 397 and 401 of Criminal Procedure Code to set aside the order dated 15.10.2008 made in C.C.No.10170 of 2005 on the file of the Court of Metropolitan Magistrate, No.8, George Town, Chennai and allow the criminal revision case.

For Petitioner : M/s.N.S.Sivakumar

For Respondents : Mr.R.Ravichandran
Government Advocate for R1
Mr.S.Gopinathan for R2

ORDER

This Criminal Revision is filed as against the acquittal order passed by the First Appellate Court. The Accused was charged for the offence under Section 337 & 338 IPC. The Trial Court acquitted the accused on the ground that the accused was not responsible for the negligence. As against which the present criminal revision has been filed.

2. Heard the counsel on either side.



The Revision Petitioner is working as an Assistant Divisional Engineer (Buildings) BSNL. During his tenure i.e. on 10.04.2005, PW1 one Thangaraj was standing near the BSNL building. The pipe attached to the building fell down, as a result he sustained injuries. Therefore, prosecution has been initiated against the accused for offence under Section 337 IPC (5 counts) and 338 IPC.

3.The learned Trial Court considering the evidence of the PW13 found that this accused is no way responsible for the rash and negligent act and only the Civil Engineer who was incharge of the building should have been taken care of the contract work and acquitted the accused. As against the order of the Trial Court the present criminal revision is filed.

4.On a perusal of the entire materials, this Court does not find any infirmity in the order passed by the Trial Court. To prove the specific charges as against the accused under Section 337 and 338 IPC. The prosecution initially ought to have proved that the accused has acted in a rash or negligent manner endangering the personal safety of others.

5.In the absence of evidence to show that the accused was in charge for the above contract work or the accused has either acted rashly or negligently. Merely some injuries sustained by the passer by, the accused cannot be fastened with criminal liability.

6.Hence, I am not persuaded myself to accept the contention of the counsel appearing for the revision petitioner that due to the rash negligence act of the accused, the revision petitioner sustained grievous injury. Hence the Criminal Revision is dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. State rep. By
The Inspector of Police
C-1, Flower Bazaar Police Station
Chennai 600 001
2. The VIII Metropolitan Magistrate Court
George Town, Chennai.



3. Thro' The Chief Metropolitan Magistrate,
Chennai.

4. The Public Prosecutor
High Court of Madras
Chennai 600 108

+1cc to Mr.S.Gopinathan, Advocate, S.R.No.17289
+1cc to M/s.N.S.Sivakumar, Advocate, S.R.No.17813

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KK(CO)
CS/24/04/18