

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.11.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.A.No.299 of 2014

State rep. by

The Inspector of Police,  
Perambalur Police Station,  
Perambalur District.  
Cr.No.83 of 2008.

.. Appellant

Vs.

1.Thangavel  
2.Renuka Devi

.. Respondents

Criminal Appeal filed under Section 378 of Cr.P.C. praying to set aside the judgment of acquittal passed by the Chief Judicial Magistrate, Perambalur in C.C.No.18 of 2011 dated 26.11.2013, convict and sentence A1 and A2.

For Appellant : Mr.G.Ramar, GA

For Respondents : Mr.S.Kamadevan

J U D G M E N T

The respondents herein faced prosecution in C.C.No.18 of 2011 before the Chief Judicial Magistrate, Perambalur for the offences under Section 304A IPC and Section 5 read with 180 of the Motor Vehicles Act and were acquitted on 26.11.2013. Challenging the acquittal, the State has filed the present appeal against acquittal and leave has been granted by this Court in CrI.O.P.No.2675 of 2014 on 02.06.2014.

2.On notice from this Court, the respondents/accused entered appearance through Advocate Mr.S.Kamadevan. When the matter was taken up for hearing, this Court noticed that the appeal should have been filed by the State under Section 378 (1)(a) Cr.P.C. before the Court of Session, Perambalur and not before this Court, in view of the amendment to the Code by Central Act 25 of 2005 (w.e.f. 26.03.2006). Neither the office of the Public Prosecutor nor this Court had noticed this, at the time of numbering of the appeal and grant of leave. Therefore, this Court directed the presence of the respondents/accused before this Court.

3.Today, Ms.M.Subbulakshmi, Inspector of Police, Perambalur Police Station, Perambalur District is present before this Court.

4.The respondents/accused are also present before this Court. They have executed a bond to this Court undertaking to appear before the Court of Session, Perambalur on 10.12.2018 at 10.30 a.m.

5.In view of the above, the Registry is directed to take photocopies of the memorandum of appeal and other necessary documents and send the original along with the trial Court records if received, to the Principal District and Sessions Judge, Perambalur immediately. The learned Principal District and Sessions Judge, Perambalur is directed to post the hearing of the case on 10.12.2018, on which date, the respondents/accused will appear in person and also would enter appearance through their Advocate. In the event of the respondents/accused not appearing before the Principal District and Sessions Judge, Perambalur, warrant can be issued to secure their presence and they may be remanded to custody under Section 390 Cr.P.C. The Principal District and Sessions Judge, Perambalur is directed to re-number the appeal and hear the same on merits in accordance with law. No special leave need to be granted, since this Court has already granted leave.

With the above directions, this appeal is disposed of accordingly.

Gya

Sd/-

Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

To

1. The Principal District and Sessions Judge, Perambalur.
2. The Chief Judicial Magistrate, Perambalur.
3. The Inspector of Police, Perambalur Police Station, Perambalur District. Cr.No.83 of 2008.
4. The Public Prosecutor, High Court, Madras.

KR/23/11/18

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