



3. In view of the accident, the head of the said Kittu @ Krishnamoorthy was crashed and the brain was come out from the head and he died on the spot itself. The eyewitness is the P.W.1, one Jagadeesan lodged a complaint before the Inspector of Police, Erode North Police Station on the same day at about 06.15 pm. On the basis of the complaint a case was registered by the North Police Station in Crime No.319 of 2007 under Sections 279 and 304 (A) IPC.

5. As against the order of the learned Judicial Magistrate No.1, Erode in C.C.No.292 of 2007 dated 20.06.2012, the revision petitioner has preferred the Criminal Appeal in C.A.No.177 of 2012 before the First Additional Sessions Judge of Erode District, Erode.

7. The learned counsel for the petitioner would submit that the trial Court ought to have acquitted the revision petitioner as the prosecution miserably failed to prove the charges framed against the petitioner beyond all reasonable doubt. It is pertinent to note that the deceased Krishnamoorthy was not having driving license to drive the two wheeler that has been admitted by the P.W.9, investigating Officer.

<https://hcservices-ecourts.gov.in/hcservices/>



9. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the rash and negligent on the part of the revision petitioner/accused was proved by the prosecution beyond reasonable doubt. Admittedly, the road namely A.B.T Road is a one way road, in the above road only the vehicle are permitted from Eastern to Western side. In this case, the victim who drove his vehicle on the opposite direction i.e., from West to East, it is also admitted by the prosecution, thereby one cannot expect a person came in the opposite direction in a one way road, and the rash and negligent is only on the part of the victim and not on the par of the revision petitioner/accused. Of course, driving the vehicle in the opposite direction in a one way road is an offence. But on the other hand, the revision petitioner who drove the van shall not drive the vehicle in a rash and negligence manner and to cause the death of a person when he came in one way road or two way road. On the cogent evidence of the prosecution it is proved that the accused drove the van in a rash and negligent manner that too on the righten side of the road and dashed against the victim. Hence the Criminal Revision Case may be dismissed.

10. Heard and perused the materials available on record.

11. Admittedly the accident took place on 17.05.2007 and the investigating Officer also deposed the same in cross examination. The road namely A.B.T road is one way and the vehicles can proceed from Eastern to Western side. Therefore proceeding from West to East is prohibited one. If it is so, the revision petitioner drove the two wheeler from West to East. Therefore, the rash and negligence is only on the part of the victim and not on the part of the revision petitioner/accused. Both the Courts below have failed to consider these aspects and acquitted the revision petitioner, which warrants interference of this Court.

12. In the result, Criminal Revision Case is allowed and the Judgment passed in C.A.No.177 of 2012 dated 24.01.2013 is set aside. Fine amount if any paid by the revision petitioner shall be refunded.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The I Additional Sessions Judge of Erode District,
Erode.

2. The Principal Sessions Judge,
Erode.



3. The Judicial Magistrate No.I,
Erode.

4. -Do-Thro' The Chief Judicial Magistrate,
Erode.

5. The Public Prosecutor,
High Court of Madras.

6. The Inspector of Police
Erode North Police Station,
Erode District.

Copy to : The Section Officer, Criminal Section,
High Court of Madras, Chennai.

+1 cc to M/s.R.Marudhachalamurthy, Advocate Sr.No. 65381

Crl.R.C.No.960 of 2013

RS-1 (C.O.)
AKM/16.08.19/ 4P-8C /