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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 03.04.2018

DELIVERED ON : 24.04.2018

CORAM

THE HONOURABLE MRS.JUSTICE R. THARANI

Cr1. R.C.(MD)No.188 of 2013

Jeyakumar

.. Petitioner

Vs.

1.Thangamani

2.State represented by,
Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.
(Crime No.43 of 2011)

.. Respondents

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.I, Srivilliputhur in C.C.No.32 of 2011 dated 15.09.2012.

For Petitioner : Mr.A.K.Manickam

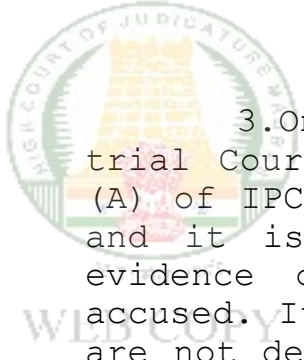
For Respondent No.1 : Mr.A.Alexander

For Respondent No.2 : Mr.M.Chandrasekaran
Additional Public Prosecutor

ORDER

Heard Mr.A.K.Manickam, learned counsel appearing for the petitioner, Mr.A.Alexander, learned counsel appearing for the first respondent and Mr.M.Chandrasekaran, learned Additional Public Prosecutor appearing for the second respondent.

2.This revision case has been filed, challenging the judgment dated 15.09.2012 in C.C.No.32 of 2011 on the file of the learned Judicial Magistrate No.I, Srivilliputhur.



3. On the side of the petitioner, it is stated that the trial Court is erred in acquitting the accused under Section 304 (A) of IPC. The petitioner is the defacto complainant in the case and it is stated that the evidence of P.W.2 corroborates the evidence of P.W.1. and also disclosed the negligence of the accused. It is further stated that the evidence of P.W.5 and P.W.6 are not denied by the accused. The Doctor who admitted the victim in the Government Hospital is not examined and it is proper to set aside the order of the trial Court.

4. On the side of the respondents, it is stated that the deceased is a pedestrian and P.W.1 is the son of the deceased. It is stated that the first respondent has not drove the vehicle in a rash and negligent manner. The charge against the first respondent is that he drove the two wheeler bearing registration No.TN-58-EZ-8554 in rash and negligent manner without blowing horn and without valid licence and dashed against one Ponnuthai and caused her death. The charge sheet against the accused under Section 304(A) of IPC was filed by the Nathampatti Police Station.

5. From a perusal of the records it is seen that the lower Court has considered that P.W.1 who is the petitioner herein, is an interested witness. P.W.1 has given evidence that the injured was taken to the Vadamalayan Hospital, Madurai and then she was taken to Madurai Government Hospital. While P.W.6, Doctor chidambaram is counsellor in Vadamalayan Hospital, has deposed that the deceased already took treatment in Vataruerupu Government Hospital and then in Government Rajapalayam Hospital and then she came to the Vadamalayan Hospital, Madurai.

6. P.W.1 has deposed that the first respondent has driven the vehicle with speed and hence, the trial Court came to conclusion that the speed does not mean rashness. P.W.2 deposed that at the time of occurrence, he was in his agricultural land. The lower Court decided that P.W.2 is not a occurrence witness.

7. There is contradiction between the evidence of P.W.1 and the evidence of P.W.6, who is Doctor. The occurrence has taken place on 31.03.2011 at about 09.00 a.m., but the injured was taken to the Vadamalayan hospital only on 01.04.2011 at about 01.05 p.m., there is no damages to the vehicle driven by the first respondent. There is no records to show that the accused also got injury in the occurrence. The occurrence took place in the Village Road. By considering all these things, it is clear that there is chance for the deceased to have crossed the road without observing the vehicle passing by. The evidence of the P.W.1 is not supported by the evidence of P.W.6. No other eyewitness are examined except P.W.1. The documents regarding the treatment given to the deceased person at Vadamalayan Hospital and at Madurai Government Hospital are not produced and hence, there is no specific reason to re-consider to interfere with the order passed



in the lower Court. Hence, the criminal revision case is dismissed and thereby, the order passed by the lower Court is confirmed. No Costs.

Sd/-

Assistant Registrar (AE)

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/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I,
Srivilliputhur.

2.The Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO Mr.A.Alexander, Advocate, Sr No.62911

Cr1. R.C.(MD)No.188 of 2013
03.04.2018

mrn

MS/CM-PN/SAR.3/15.05.2018/3P.5C