

Gurdudeth S/o Madhavan

Vs

State of Kerala

Criminal Appeal No. 375 of 1988

(A. P. Sen, B. C. Ray JJ)

18.07.1988

ORDER

1. Special leave granted. Arguments heard.
2. We are satisfied that the High Court had no jurisdiction while acquitting the appellant of the offences under Sections 304-A and 279 of the Indian Penal Code, 1890 in directing that his conviction and sentence under Section 89 (a) and (b) of the Motor Vehicles Act, 1939 shall be maintained. We fail to appreciate the legality and propriety of such a direction. The High Court completely overlooked that there was an order of acquittal rendered by the Additional Judicial 1st Class Magistrate II Trivandrum by his judgment dated December 7, 1983 holding that the offence under Section 89 (a) and (b) was not made out against the appellant. There was no appeal against acquittal preferred by the State Government. In view of this, the High Court had no jurisdiction and power to direct the conviction of the appellant under Section 89 (a) and (b) of the Act.
3. Accordingly, the appeal is allowed. The judgment of the High Court insofar as it directs that the conviction and sentence passed on the appellant under Section 89 (a) and (b) of the Motor Vehicles Act, 1939 are set aside.
4. The bail bonds shall stand cancelled.

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