

BAIL SLIP

The Accused namely Viz; P.Venkataraman S/o.Pakkirisamy was directed to released on bail made in MP.No.1/2014 in CrI.R.C.No.615/2014 dated 27.06.2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

CrI.R.C.No.615 of 2014

&

M.P.No.1 of 2014

P.Venkataraman ... Petitioner/Accused

vs.

The Stare represented by
The Inspector of Police
Madurantakan P.S. ... Respondent/Complainant

Criminal Revision filed under section 397 and 401 Cr.P.C. against the judgment of learned Additional District and Sessions Judge, Chengalpet, passed in C.A.No.55 of 2011 on 20.06.2014, confirming the judgment of learned Judicial Magistrate, Madurantagam, passed in C.C.No.356 of 2007 on 27.07.2011.

For Petitioner : Mr.V.Bharathidasan

For Respondent : Mr.C.Iyyapparaj, G.A.(CrI.side)

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offences u/s.279, 304-A (2 counts) IPC and sentencing him to undergo 6 months R.I. for offence u/s.279 IPC and 2 years R.I. for offence u/s. 304-A IPC (for each counts). Sentences were ordered to run concurrently.

2. Prosecution case is that a lorry bearing registration No.TN-32-Y-3123 had been rendered stationary on the GST road owing to an accident with another lorry which had been driven

away on 21.08.2007 about 08.00 p.m. The driver, owner and cleaner of the lorry, taking note of the damage to the front portion of the lorry, decided that the same could not be moved and hence, the owner and cleaner broke off branches from the trees on the highway towards placing the same behind the lorry as a signal to on coming vehicles. At such time, the Government Periyar Transport Corporation bus driven by the petitioner, bearing registration No.TN-32-N-2118, hit both the owner of the vehicle as also the cleaner and slammed them against the rear of the lorry. As a result of the accident the head of the cleaner was severed while the owner who had suffered injuries, died on the way to hospital. It is the prosecution allegation that the accident had occurred owing to rash and negligent driving of the bus by the petitioner. A case was registered in Crime No.356 of 2007 on the file of respondent and upon completion of investigation and filing of charge sheet informing commission of offences u/s.279, 304-A IPC, the case was tried in C.C.No.356 of 2007 on the file of learned Judicial Magistrate, Maduranthakam.

3. To prove its case, the prosecution examined nine witnesses and marked seventeen exhibits. None were examined on behalf of the defence nor were any exhibits marked. The trial Court, under judgment dated 27.07.2011, convicted the petitioner/accused for offences u/s.279, 304(A) IPC (2 counts) and sentenced him to undergo 6 months R.I. for offence u/s.279 IPC and 2 years R.I. for offence u/s. 304-A IPC (for each counts). There against, the petitioner preferred an appeal in C.A.No.55 of 2011 on the file of learned Additional District and Sessions Judge, Chengalpet, which came to be dismissed under judgment dated 20.06.2014. Hence, this revision.

4. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

5. Admittedly, the lights of the lorry which had been dashed against by the bus driven by the petitioner were disfunctional. The occurrence had taken place in the night. There was no evidence that there was any light at the scene of occurrence. The FIR informs that it had been raining. We are to consider whether the petitioner ought to have noticed the deceased standing on the road and behind the stationary lorry, since he would have had the benefit of the beam of the bus headlights. The difficulty in spotting persons standing on the road during night hours and merely through one's own headlights piercing the rain can be appreciated only by one used to driving in the night. The task is by no means simple. A rudimentary knowledge of physics would bring about the realisation that refraction of light would occur. There is every possibility that the effect thereof, could well have been blinded the driver/appellant. An indication that the bus was not driven in a

rash and negligent manner by the petitioner is to be gathered from the Motor Vehicle Inspector's report relating to both the bus and the lorry. The same informs thus:

Bus		Lorry	
1.	Front left side body, grill, Headlight, Indicator damaged.	1.	Rear right Indicator assembly broken.
2.	Front wind screen glass with frame Damaged.	2.	Front body, front grill, both side headlight indicator damaged
3.	Leftside Front foot board damaged	3.	Front both wind screen glass broken.
I'am of the opinion that the accident was not due to any mechanical failure of the vehicle.		4.	Radiator, Engine bed damaged
		5.	Steering column bend
		6.	Chassis front side bend
		I am of the opinion that the accident was not due to any mechanical failure of the vehicle.	

The damage to the front of the lorry admittedly had been occasioned owing to the same having dashed against by another lorry which had been driven away. The only damage to the lorry that could be attributed to the accident in the case is 'Rear right Indicator assembly broken'.

6. Given the attendant facts and circumstances, we are unable to arrive at a decision that the accident resulting in death of two persons had been occasioned owing to rash and negligent driving of the bus. Benefit of doubt would have to be afforded to the appellant. We are of the view that the Courts below have failed to appreciate the materials on record in proper perspective and hence, we are inclined to interfere with the finding of the Courts below.

7. Accordingly, the criminal revision is allowed. The order of the Court below is set aside. Petitioner is acquitted of all charges in the case. Fine amount, if any paid, shall be refunded to him. Bail bond, if any, executed by him shall stand cancelled. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Additional District and Sessions Judge,
Chengalpet.

2.The Judicial Magistrate,
Madurantagam.

3.The Superintendent
Central Prison,
Puzhal Chennai

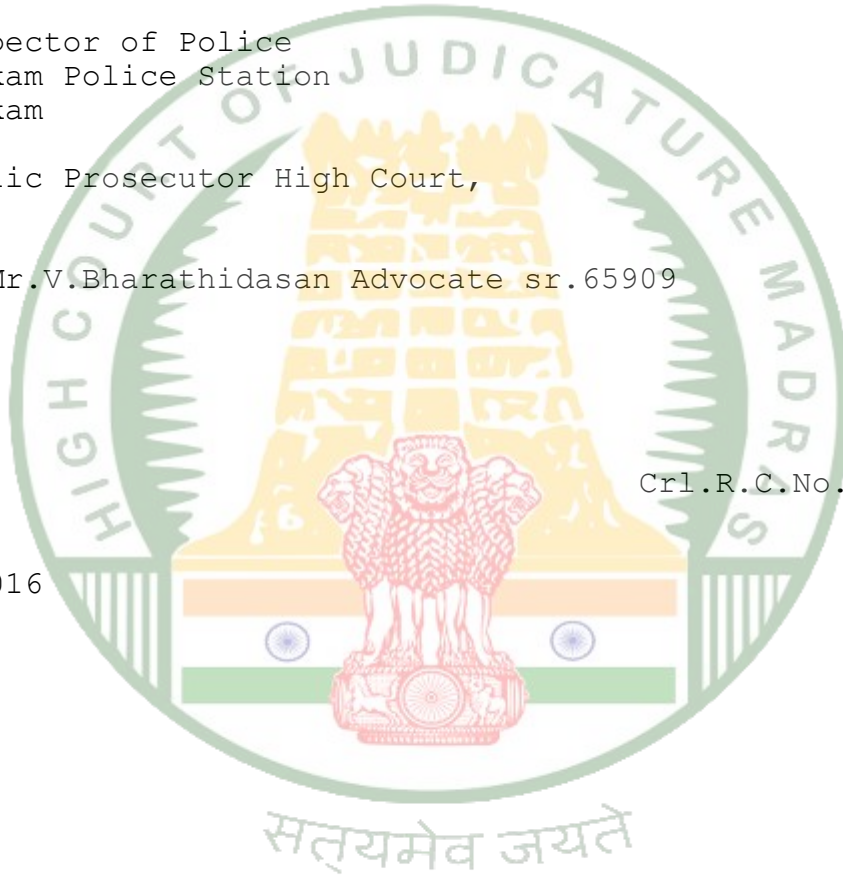
4.The Inspector of Police
Madurantakam Police Station
Madurantakam

5.The Public Prosecutor High Court,
Madras

+1 cc to Mr.V.Bharathidasan Advocate sr.65909

Cr1.R.C.No.615 of 2014

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