

Bail Slip

The Revision Petitioner/Accused Viz., A.Vinodh Kumar S/O.Arumugham was directed to be released on bail as per order of this Court dated 22/12/2010 and made in M.P.2/2010 in Crl R.C.1284/2010 on the File of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1284 of 2010

A.Vinodhkumar
S/o.Arumugham ... Petitioner/Accused

vs.

State represented by
Inspector of Police,
N.2 Kasimedu Police Station,
Chennai.

Crime No.68 of 2008 ... Respondent/Complainant

Criminal Revision filed under section 397 and 401 Cr.P.C. against the judgment of learned Additional Sessions Judge, Fast Track Court V, Chennai, passed in C.A.No.164 of 2009 on 22.09.2010, confirming the judgment of learned III Metropolitan Magistrate, George Town, Chennai, passed in C.C.No.4213 of 2008 on 14.09.2009.

For Petitioner : Mr.S.Senthilmurugan
for Mr.S.Deivasigamani

For Respondent : Mr.V.Arul
Government Advocate [Crl.side]

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offences u/s.304-A, 337 IPC and 184 of the Motor Vehicles Act and sentencing him to undergo 6 months R.I. for offence u/s.304-A IPC, 2 months R.I. for offence u/s.337 IPC and fine of Rs.200/- i/d 1 week S.I. for offence u/s.184 of the Motor Vehicles Act. Sentences were ordered to run concurrently.

2. The prosecution case is that on 29.04.2008 at about 10.00 p.m., PW-2 was riding a motor cycle bearing registration No.TN-04-M-2665 while the deceased was riding pillion. A container lorry bearing registration No.TN-28-J-0774 driven by petitioner/accused hit the motor cycle of PW-2 from behind and upon PW-2 and deceased falling off the vehicle, PW-2 suffered injuries and the deceased was run over. Both were taken to hospital by PW-1, who was following them on his motor cycle. A case was was registered in Crime No.68 of 2008 on the file of respondent and upon completion of investigation and filing of charge sheet informing commission of offences u/s.304-A, 337 IPC and 184 of the Motor Vehicles Act, the case was tried in C.C.No.4213 of 2008 on the file of learned III Metropolitan Magistrate, George Town, Chennai.

3. To prove its case, the prosecution examined thirteen witnesses and marked fifteen exhibits. None were examined on behalf of the defence nor were any exhibits marked. The trial Court, under judgment dated 14.09.2009, convicted the petitioner/accused for offences u/s.304-A, 337 IPC and 184 of the Motor Vehicles Act and sentenced him to undergo 6 months R.I. for offence u/s.304-A IPC, 2 months R.I. for offence u/s.337 IPC and fine of Rs.200/- i/d 1 week S.I. for offence u/s.184 of the Motor Vehicles Act. There against, the petitioner preferred an appeal in C.A.No.164 of 2009 on the file of learned Additional Sessions Judge, Fast Track Court V, Chennai, which came to be dismissed under judgment dated 22.09.2010. Hence, this revision.

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

5. Ex.P15, Accident Register, reveals that the deceased was brought to hospital by PW-1. Such fact fortifies the prosecution case that PW-1 was a witness to the occurrence. Ex.P7, Motor Vehicle Report, reveals that the motor cycle had suffered damage to its rear. Therefore, it is clear that it was upon the container lorry driven by the petitioner hitting against the motorcycle from behind that the deceased and PW-2 fell off of the vehicle resulting in the death of one and injuries to another. It is the submission of learned counsel for petitioner that the motorcycle driven by PW-2 overtook the container lorry from the left and thus came into contact with the lorry. This contention is not sustainable since PW-1, had informed that the accident did take place in the manner stated by the prosecution. This Court, however, would accept the contention of learned counsel for petitioner that none of the witnesses have spoken to the petitioner having driven the container lorry in a rash and negligent manner. This aspect assumes significance as it is the admission of PW-2 that the accident took place while he was crossing a 1½ feet speed breaker on the road. Therefore, as

contended by learned counsel for petitioner there is every possibility of the motorcycle coming into contact with the container lorry as a result of loss of balance occasioned while crossing the speed breaker. In the absence of any direct evidence of the petitioner having driven the container lorry in a rash and negligent manner, the benefit of doubt would have to be afforded to him.

This Criminal Revision is allowed. The judgments of Courts below are set aside. Petitioner is acquitted of all charges. Fine amount, if any, paid by petitioner shall be refunded to him.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional Sessions Judge,
Fast Track Court V, Chennai.
- 2.The III Metropolitan Magistrate,
George Town, Chennai.
- 3.-Do- thro The Chief Metropolitan Magistrate,
Egmore, Allikulam Complex,
Chennai-3
- 4.The Inspector of Police,
N.2 Kasimedu Police Station,
Chennai.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The Section Officer,
Criminal Section,
High Court, Madras-104.

+1cc to Mr.S.Deivasigamani, Advocate, S.R.No.66811

Cr1.R.C.No.1284 of 2010

msm(CO)
srg(08/02/2016)