

Bail Slip

The Petitioner Viz.Murugavel, S/o. Srinivasan, aged about 35 years, was released on bail in M.P.No.2 of 2010 in Crl.R.C.No.192 of 2010, dated 17.02.2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No. 192 of 2010

Murugavel

...Petitioner

versus

State represented by
Inspector of Police
Valavanur Police Station
Villupuram District

.. Respondent

Revision filed under Sections 397 read with 401 of the Criminal Procedure Code against the judgment and order of conviction passed by the learned Principal Sessions Judge, Villupuram in C.A.No.1 of 2010 dated 05.2.2010 confirming the conviction and sentence passed in C.C.No.314 of 2005 dated 03.12.2009 by the learned Judicial Magistrate No.II, Villupuram convicting the petitioner for the offence under Section 304 (A) of IPC and sentencing him to undergo one year rigorous imprisonment and to pay a fine of Rs.2,000/- in default three months simple imprisonment.

For Petitioner : Mr.L.Bhaskaran

For Respondent : Mr.V.Arul
Government Advocate (Crl.side)

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ORDER

On the basis of the complaint given by the defacto complainant/P.W.1, namely, Kuppan, a case in Crime No. 219 of 2005 was filed against the accused/ the petitioner herein for the offences punishable under Section 304 (A) of IPC. After investigation, final report has been filed and the same was taken cognizance in C.C.No.314 of 2005 on the file of the Judicial Magistrate No.II, Villupuram. After trial, the trial court convicted the accused for the offences punishable under Section 304 (A) IPC and sentenced him to undergo one year Rigorous Imprisonment and to pay a fine of Rs.2,000/- and in default to undergo three months Simple Imprisonment. Against which, the accused has filed Crl.A.No. 1 of 2010 before the

learned Principal Sessions Judge, Villupuram and the appellate Court while confirming the conviction has modified the sentence into one year Simple Imprisonment instead of one year Rigorous Imprisonment. The fine as ordered by the trial Court was confirmed. Aggrieved by the order passed by the first appellate Court, the petitioner/accused has filed the present Criminal Revision Case.

2. The case of the prosecution is that on 26.3.2005, at about 11.30 a.m., the accused, who was driving his Maruti Omni van bearing Registration No.TN. 29 Y 6876 in a rash and negligent manner from Pondicherry towards Villupuram in the Koviyalur Main Road, opp to Panchayat Union, dashed against Mrs.Panchathal, the deceased, who was walking on the same side towards east. As a result of which, the said Panchathal sustained multiple injuries and died. In this context, the defacto complainant/P.W.1 had given a complaint based on which the accused was proceeded with for the offences as mentioned above.

3. The learned counsel appearing for the petitioner did not argue on merits but confined his argument only on the question of sentence imposed on the petitioner by the courts below. The learned counsel for the petitioner submits that the petitioner is a driver and if sentence of imprisonment is imposed on him, it will affect his entire family. The learned counsel further submits that the petitioner is not having any previous case and that now he is aged about 41 years and that he is the sole bread winner of the family and he has to take care of his children. It is submitted that the petitioner is repenting his misdeeds. Therefore, the learned counsel for the petitioner prayed for showing leniency in reduction of sentence.

4. Learned Government Advocate submitted that due to rash and negligent driving of the Maruti Omni van by the accused/petitioner, the accident had occurred. However, the learned Government Advocate admits that the petitioner is not having any previous case. It is submitted by the learned Government Advocate that nowadays, death are increasing due to these type of accident and, therefore, the Courts below have rightly convicted the petitioner. It is also submitted by the learned Government Advocate that leniency has already been shown by the appellate Court by modifying the sentence from one year Rigorous Imprisonment to one year Simple Imprisonment. Therefore, the learned Government Advocate prays for dismissal of the revision.

5. I have heard the submission made by the learned counsel for the petitioner, learned Government Advocate appearing for the respondent State and perused the materials on record.

6. The trial court convicted the petitioner/accused for the offences punishable under Section 304 (A) I.P.C and sentenced to undergo One year Rigorous Imprisonment and to pay a fine of Rs.2,000/- and in default to undergo three months Simple Imprisonment. On appeal, the appellate Court while

confirming the fine amount reduced the sentence into one year Simple Imprisonment.

7. On a careful perusal of the entire evidence, it is clear that the petitioner has committed the offence under Section 304 (A) IPC and the same has been established by the prosecution beyond reasonable doubt. But now the petitioner contends that he is the sole bread winner of the family and if sentence of imprisonment is imposed on him, it will affect his entire family. Now, the petitioner is also repenting his misdeeds. But, at the same time, the petitioner has caused irreparable loss to the family of the deceased.

8. However, taking into consideration the submission of the learned counsel for the petitioner that the petitioner is 40 years old and that he is the sole bread winner of the family and that he is not having any previous case, I am inclined to reduce the sentence into 6 months Simple Imprisonment.

9. Accordingly, while confirming the conviction imposed by the Courts below, the sentence is reduced into 6 months Simple Imprisonment instead of one year simple imprisonment as imposed by the appellate Court. The fine as imposed by the Courts below is confirmed. The trial court is directed to take necessary steps as are necessary to secure the presence of the petitioner for undergoing the period of six months Simple Imprisonment. It is needless to say that the sentence already undergone by the petitioner can be given set off as contemplated under Section 428 of Cr.P.C.

With the above reduction in sentence, the Criminal Revision Case is partly allowed.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

1. The Judicial Magistrate No.II, Villupuram.
2. Do-Thro'The Chief Judicial Magistrate, Villupuram
3. The Principal Sessions Judge, Villupuram.
4. The Inspector of Police,
Valavanur Police Station,
Villupuram.
5. The Superintendent,
Central Prison, Cuddalore.
6. The Public Prosecutor, High Court, Madras.