

BAIL SLIP

The Petitioner/Accused was directed to be released on bail in and by the Order of this Court dated 22.12.2009 made in CrI.M.P.No.1 of 2009 in CrI.RC.No.1254 of 2009 on the file of the High Court of Madras.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1254 of 2009

Akber

.... Petitioner/Accused

Versus

State rep. by the
The Inspector of Police
Buvanagiri Police Station
Chidambaram, Cuddalore District

.... Respondent/Complainant

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 11.12.2009 passed by the learned Additional Sessions Judge (Fast Track Court-I), Chidambaram in C.A.No.30 of 2008 confirming the conviction and sentence passed by the learned District Munsif cum Judicial Magistrate, Parangipettai, in C.C.No.217 of 2005 dated 11.04.2008.

For Petitioner : Mr.R.Sankara Subbu

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

ORDER

The petitioner was convicted for the alleged offences under Sections 279, 337 (3 counts), 394 (A) and 304(A) of IPC and sentenced to undergo rigorous imprisonment for three months for each of the counts under Section 337 IPC; to undergo rigorous imprisonment for six months for the offence under Section 304(A) IPC and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for three months and both the sentences were ordered to run concurrently. However, no sentence was awarded for the offence under Section 279 IPC. As against the conviction and sentence imposed, the

petitioner preferred Crl.Appeal No.30 of 2008, which was dismissed on 11.12.2009 confirming the order passed by the trial court. Aggrieved by the same, the present Criminal Revision Case is filed.

2. The brief case of the facts is as follows:

On 21.08.2005, at about 4.00 a.m., the petitioner, who was working as a Driver in the State Transport Corporation, due to the rash and negligent driving, hit against three persons, who were standing nearby the road and thereby caused grievous injuries to them. Further, in the same incident, one Asai Thambi, who also was standing near the other persons died. Hence, the complaint. Both the Courts below have concurrently found the petitioner guilty of the charges and sentenced to undergo imprisonment as mentioned above. As against the same, the petitioner has preferred this Criminal Revision.

3. Learned counsel appearing for the petitioner would submit that the accused have no intention to hit the persons. Further, he would contend that only due to the tyre burst, he could not control the vehicle. Hence, the accident occurred. Even the evidence given by PW4 the conductor of the bus would evidence the same. Accordingly, he would pray for setting aside the conviction and sentence ordered by both the Courts below.

4. However, the learned counsel for the petitioner/accused would submit that if this Court comes to a conclusion that the orders passed by the Courts below warrants no interference, then, he pray for reduction of the sentence imposed on the petitioner/accused.

5. Learned Government Advocate (Criminal Side) appearing on behalf of the respondent submitted that the witnesses examined on the side of the prosecution has categorically deposed about the incident and also identified the accused. In such circumstances, the conviction and sentence imposed by the Courts below are correct and no interference is warranted.

6. Heard both sides.

7. On a bare perusal of the orders passed, it is seen that both the Courts below, after analysing the entire evidence, viz., both oral and documentary available before it, came to the conclusion that the petitioner has caused the accident due to his rash and negligent driving only. Hence, I do not find any reason to interfere with the reasoned order passed by both the Courts below.

8. As far as reduction of sentence is concerned, the learned counsel for the petitioner prayed leniency before this Court, taking into consideration the fact that the petitioner, being a Government Servant, already lost his job; further he also underwent incarceration for a period of 28 days; the petitioner also has paid

the fine amount as ordered by the trial court and that he is the only bread winner in his family.

9. Considering the said request made by the learned counsel for the petitioner, while upholding the conviction imposed on the petitioner by the Courts below, I am inclined to reduce the sentence imposed on him for both the offences into one of the period already undergone. In addition to that, the petitioner is also directed to pay a sum of Rs.15,000/- [Rupees fifteen thousand only] as compensation to the credit of C.C.No.217 of 2005 on the file of the learned District Munsif cum Judicial Magistrate, Parangipet within a period of two months from the date of receipt of a copy of this order. On such deposit being made, the learned Magistrate is directed to disburse the same to the deceased Asai Thambi's family on proper identification. In the event of failure to pay the amount of Rs.15,000/- [Rupees fifteen thousand only] within the time stipulated as ordered by this Court, the petitioner/accused has to undergo rigorous imprisonment for a period of six months as ordered by the trial Court and confirmed by the first appellate court. In such event, the trial court shall take appropriate steps as are necessary to secure the presence of the petitioner/accused to undergo the sentence of six months rigorous imprisonment imposed by the Courts below. It is needless to mention that the period of sentence already undergone by the petitioner shall be given set off under Section 428 of Cr.P.C.

10. In the result, the Criminal Revision Case is partly allowed to the extent indicated above.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vj2

To

1. The Additional Sessions Judge
(Fast Track Court-I),
Chidambaram
2. The District Munsif cum
Judicial Magistrate,
Parangipettai
3. -Do- Through The Chief Judicial Magistrate,
Cuddalore (For Information)

4. The Public Prosecutor,
High Court, Madras
5. The Inspector of Police,
Buvanagiri Police Station,
Chidambaram,
Cuddalore District.
6. The Superintendent,
Central Prison,
Cuddalore.

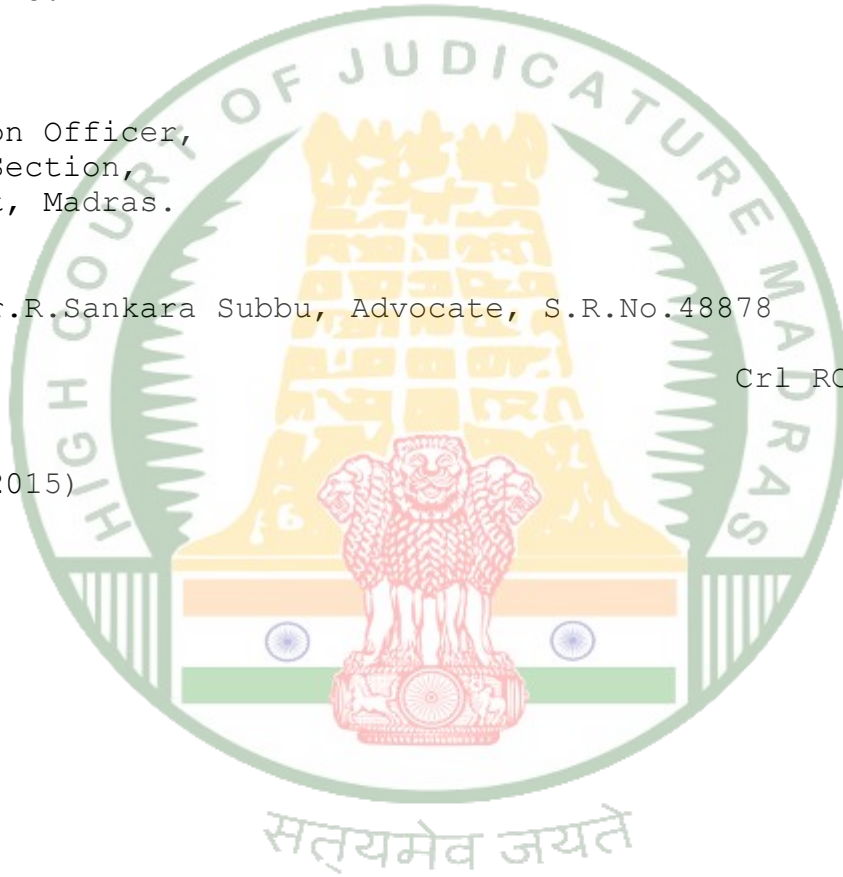
Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.R.Sankara Subbu, Advocate, S.R.No.48878

Crl RC No.1254 of 2009

AK(CO)
CA(05/10/2015)



WEB COPY