

BAIL SLIP

The Petitioner/Sole accused namely Ganesan Karthikeyan S/O.Murugan was directed to be released on bail as per order of this Court dated 27/4/10 and made in MP.NO.2/10 in Crl.RC.No.460/10 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No. 460 of 2010

Ganesan Karthikeyan .. Petitioner/Accused

v.

State represented by
Inspector of Police
Kallakurichi Police Station
Kallakurichi
(Crime NO.272 of 2007)

.. Respondent/Complainant

Petition filed under Sections 397 read with 401 of the Criminal Procedure Code, to set aside the order of conviction against the petitioner herein passed in C.C.No.345 of 2007, dated 01.02.2010 on the file of Judicial Magistrate at Kallakurichi confirmed in C.A.No.19 of 2010 dated 15.04.2010 on the file of Principal Sessions Judge, Villupuram.

For Petitioner : Mr.R.Rajasekaran

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, namely, Siddique Ahmed, a case in Crime No. 272 of 2007 was filed against the accused, the petitioner herein for the offences punishable under Section 304 (A) of IPC (2 counts). After investigation, final report has been filed and the same was taken cognizance in C.C.No.345 of 2007 on the

file of Judicial Magistrate, Kallakurichi. After trial, the trial court convicted the accused for the offence punishable under Sections 304 (A) I.P.C (2 counts) and sentenced him to undergo one year Simple Imprisonment for each counts and a fine of Rs.2000/- in default, to undergo two months Simple Imprisonment for each counts. Against which, the accused has filed Crl.A. No.19 of 2010 before the Principal Sessions Judge, Villupuram and the same was dismissed. Aggrieved over 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 25.05.2007 at about 12.30 noon, while Mohamed Sherif and Manojkumar (the two deceased persons) were coming in an unnumbered new Motor cycle, just opposite to AKT School at Kallakurichi to Thaiathrugam Main Road, a lorry bearing Registration No.TN 02 D 7367 was coming in the opposite direction dashed against the motor cycle and caused injury upon the driver and the billion rider and the lorry driver fled away from the scene of occurrence. The driver Mohammed Sherif died on the spot and the other person died subsequently. In this context, the defacto complainant had given a complaint based on which the accused was proceeded with for the offence 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 accident had occurred only due to the negligent act of the deceased, who driven the vehicle in a rash manner. The learned counsel also submits that there is some discrepancy in the evidence. However, the learned counsel submits that he is not pressing the case on merits and he is only questioning the sentence imposed on the petitioner.

4. It is the submission of the learned counsel for the petitioner that the petitioner was aged about 42 years and he is the sole bread winner of the family. It is also the submission of the learned counsel for the petitioner that the accident had occurred not only on the fault of the petitioner. It is submitted that the petitioner is repenting his misdeed and, therefore, the learned counsel for the petitioner prayed for showing leniency in reduction of sentence.

5. Learned Government Advocate (Crl.Side) submitted that due to rash and negligent driving of the auto by the accused, the accident had occurred. The learned Government Advocate further submitted that nowadays, death are increasing due to these type of accident and, therefore, the Courts below have rightly convicted the petitioner. Therefore, the learned Government Advocate prays for dismissal of the revision.

6. 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.

7. The trial court convicted the petitioner/accused for the offence punishable under Section 304 (A) and sentenced to undergo one year Simple Imprisonment for each counts and a fine of Rs.2000/- in default, to undergo two months Simple Imprisonment for each counts. On a perusal of the entire evidence and the judgment of the Courts below, it is clear that the accident had occurred due to the rash and negligent driving of the motorcycle by the accused. Therefore, the conviction imposed by the Courts below is correct and this Court is not inclined to interfere with the conviction imposed on the petitioner/accused.

8. However, taking into consideration the submission of the counsel for the petitioner, the fact that the petitioner is the sole bread winner of the family and that he is now aged 42 years, I am of the view that some leniency can be shown to the petitioner in reducing the sentence.

9. Accordingly, while confirming the conviction imposed by the Courts below, the sentence alone is reduced to the period of six months. The petitioner shall undergo Simple Imprisonment for a period of six months.

10. In the result, the Criminal Revision Case is partly allowed by modifying only the period of sentence from one year for each counts to six months. In view of the same, the trial court is directed to take necessary steps as are necessary to secure the presence of the petitioner/accused to undergo the above period of sentence. It is needless to point out that the period of sentence already undergone by the petitioner/accused shall be given set off as contemplated under Section 428 of Cr.P.C.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

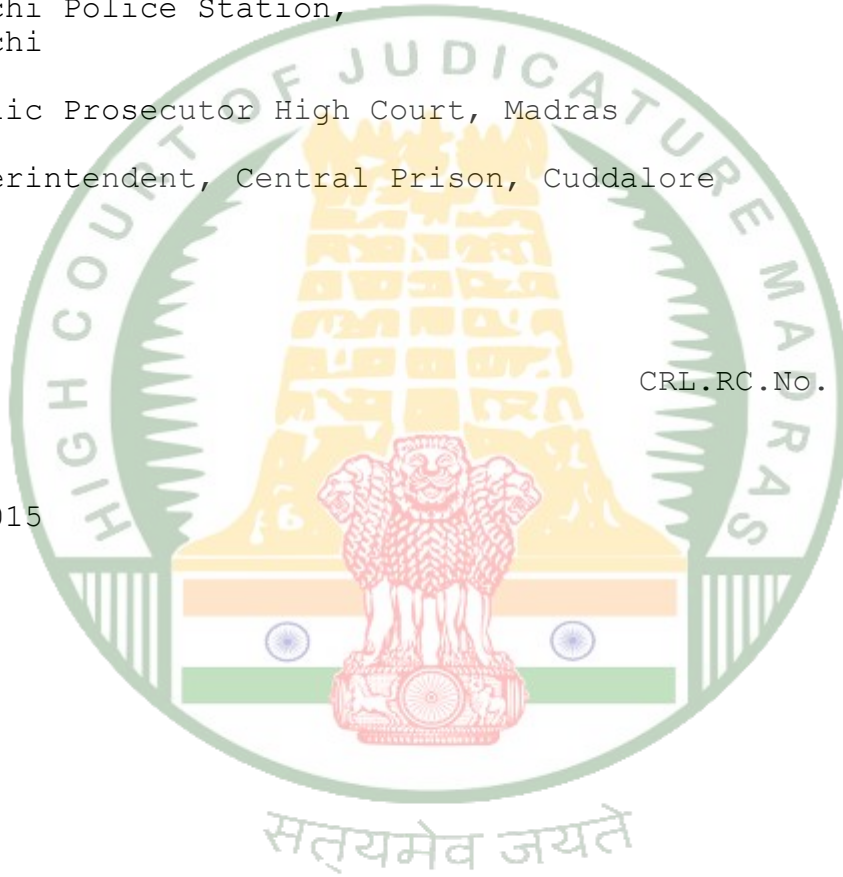
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To

1. The Judicial Magistrate,
Kallakurichi
2. -do-Thro'The Chief Judicial Magistrate,
Villupuram
3. The Principal Sessions Judge,
Villupuram.
4. The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi
- 5.The Public Prosecutor High Court, Madras
- 6.The Superintendent, Central Prison, Cuddalore

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