

Bail Slip

The Petitioner namely Ramamurthy, S/O.Thanjan, Accused in CC.No.252/04 on the file of the Judicial Magistrate, Arni, was released on bail as per order of this Court dated 3.6.10 made in CrI.M.P.No.1/10 in CrI R.C.No.461/10

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2015

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THE HON'BLE MR.JUSTICE C.T.SELVAM

CrI.R.C.No.461 of 2010

Ramamurthy .. Petitioner

vs.

State rep. by
Inspector of Police
Arni Taluk Police Station
Thiruvannamalai District.

.. Respondent

Revision against the judgment dated 25.02.2010 made in C.A.No.46 of 2005 on the file of District Sessions Court, Thiruvannamalai, confirming the sentence and judgment dated 01.9.2005 made in C.C.No.252 of 2004 on the file of the Judicial Magistrate Court, Arni.

For Petitioner : Mr.V.R.Appaswamee

For Respondent : Mr.C.Iyyapparaj
Govt. Advocate (CrI. Side)

O R D E R

This revision arises against two concurring judgments of Courts below, convicting the petitioner for offences under Section 304-A and 279 IPC and sentencing him to 1 year R.I. and fine of Rs.5,000/- i/d 3 months S.I. for offence u/s.304-A IPC and fine of Rs.1,000/- i/d 2 weeks S.I. for offence u/s.279 IPC.

2. Petitioner faced prosecution for offences under Section 304-A and 279 IPC, in case tried in C.C.No.252 of 2004 on the file of learned Judicial Magistrate, Arni. The prosecution case was that PW1/defacto complainant was riding pillion on a motor

cycle driven by the deceased. At about 9.30 pm on 18.6.2004, the deceased was driving the vehicle on the left side of Appanthangal-Sangeethavadi Road, opposite to PW-3's house. A tractor with trailer attached, which approached from the opposite direction and driven by the petitioner in a rash and negligent manner, hit the vehicle of the deceased, resulting in his suffering grave injuries. Immediately, the petitioner drove away from the scene of occurrence. PW1, along with PW-3, rushed the deceased to CMC Hospital, Vellore and thereafter, for further treatment to JIPMER Hospital. On the way thereto, the deceased succumbed to the injuries. PW1 preferred a complaint before the respondent on 19.6.2004 at about 11 am and the case in Crime No.439 of 2004 on the file of Arni Rural Police Station was registered for offences under Sections 304-A and 279 IPC.

3. Before the trial Court, prosecution examined twelve witnesses and marked eight documents. None were examined on behalf of the defence and no exhibit was marked.

4. On appreciation of evidence, the trial Court, under judgment dated 01.09.2005, convicted the petitioner for offences under Section 304-A and 279 IPC and sentenced him to 1 year R.I. and fine of Rs.5,000/- i/d 3 months S.I. for offence u/s.304-A IPC and fine of Rs.1,000/- i/d 2 weeks S.I. for offence u/s.279 IPC. There against, petitioner preferred C.A.No.46 of 2005 on the file of learned Sessions Judge, Tiruvannamalai, Tiruvannamalai District, which came to be dismissed judgment dated 25.02.2010. Hence, this revision.

5. Heard Mr.V.R.Appaswamee, learned counsel for petitioner and Mr.C.Iyyapparaj, learned Government Advocate [Crl.side] and perused the records.

6. This Court is of the view that the findings of conviction rendered by Courts below is erroneous for the following reasons:

- (i) The prosecution case is that the tractor driven by the petitioner hit the motorcycle driven by the deceased head-on resulting in the deceased suffering grave injuries. If indeed PW-1, who is said to have been riding pillion on the motorcycle had not suffered any injuries (which is the prosecution case), the same is nothing short of a miracle. In the original complaint in the case, the position of PW-1 not having suffered any injuries is informed by way of an interpolation and is suggestive of an afterthought.
- (ii) The accident allegedly took place at 09.30 p.m. on 18.06.2004. The complaint had been preferred only on the next day at 11.00 a.m. Though no explanation has been sought by the defence, one is to be found in the complaint. The complaint states that Pws.1 and 3, took the deceased to the CMC

Hospital, Vellore and thereafter to the JIPMER, Pondicherry, for further treatment. This would be a plausible explanation for the delay in preferring the complaint. However, neither has the Doctor, who admitted the deceased at the CMC Hospital, Vellore, been examined nor has the Accident Register relating to the admission of the deceased at such hospital been marked. This issue rightly has been raised by the defence and wrongly rejected by Courts below.

(iii) In chief, PW-1 informed of having fallen off the vehicle and of PW-3 having helped him up. In cross, he has deposed to having become unconscious immediately on his falling down and that PW-3 came on his crying out after regaining consciousness. PW-3 has not witnessed the accident. Both PWs.1 and 3 have admitted to being friends of the deceased for ten years.

In the circumstances, it would be unsafe to enter upon a finding of conviction against the petitioner.

This Criminal Revision shall stand allowed. The judgment of learned Sessions Judge, Thiruvannamalai, Thiruvannamalai District, passed in C.A.No.46 of 2005 on 25.02.2010 confirming the judgment of learned Judicial Magistrate, Arni, passed in C.C.No.252 of 2004 on 01.09.2005 shall stand set aside. Petitioner is acquitted of all charges. Fine amount, if any, paid by petitioner shall be refunded. Bail bonds, if any, executed by petitioner, shall stand cancelled.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

- 1.The Sessions Judge,
Thiruvannamalai District.
- 2.The Judicial Magistrate,
Arni.
- 3.The Chief Judicial Magistrate,
Thiruvannamalai.
- 4.The Inspector of Police,
Arni Taluk Police Station,
Tiruvannamalai District.

5.The Public Prosecutor,
High Court Madras-104.

+lcc to Mr.V.r.Appasamee, advocate sr.63894

Cr1.R.C.No.461 of 2010

kgk(CO)
srg(16/03/2016)



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