

BAIL SLIP

The Petitioner/Accused Viz., Sundarrajan was directed to be released on bail as per order of this Court dated 13.05.2010 in M.P.No.3 of 2010 in CrI.R.C.No.503 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2015

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.R.C.No.503 of 2010

Sundarrajan

... Petitioner/Appellant/Accused

Vs

State represented by
The Inspector of Police
H1, Ennore Police Station
Ennore, Chennai

... Respondent/Respondent/Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order passed in CrI.Appeal No.16 of 2009 dated 04.05.2010 by learned Additional District and Sessions Judge/Fast Track Court No.4, Ponneri by modifying the order in C.C.No.204 of 2000 dated 15.06.2009 by learned Judicial Magistrate, Thiruvottiyur, Chennai by allowing the Criminal Revision.

For Petitioner : Mr.R.Karthikeyan

For Respondent : Mr.C.Iyyapparaj,
Government Advocate (CrI.side)

O R D E R

This revision arises against the judgment of learned Additional District and Sessions Judge, Fast Track Court IV, Chennai, passed in C.A.No.16 of 2009 on 04.05.2010, modifying the judgment of learned Judicial Magistrate, Thiruvottiyur, passed in C.C.No.204 of 2000 on 05.06.2009.

2. Petitioner faced trial for offences u/s.304-A IPC in C.C.No.204 of 2000 on the file of learned Judicial Magistrate, Thiruvottiyur. The prosecution case was that the petitioner rashly had driven a bus bearing registration No.TN-01-L-2538, belonging to Metropolitan Transport Corporation and dashed against a bus bearing registration No.TN-01-N-1568 which towards dropping passengers, was stationary at a bus stop. As a result, a person, walking on the left side of the road, sustained grievous injuries and met his instantaneous death on 14.04.2000 at about 06.40 a.m.

3. Before trial Court, the prosecution examined thirteen witnesses and marked ten exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 15.06.2009, rendered a finding of conviction and sentenced petitioner to undergo 6 months S.I. and fine of Rs.1,000/- i/d 1 month S.I. for offence u/s.304(A) IPC. Against such finding, petitioner preferred C.A.No.16 of 2009 on the file of learned Additional District and Sessions Judge, Fast Track Court IV, Ponneri. Appellate Court, under judgment dated 06.05.2010, while confirming the finding of conviction and fine imposed by the trial Court, modified the sentence to one of 1 month S.I. for offence u/s.304 (A) IPC. There against, this revision has been filed.

4. Heard learned counsel for petitioner and learned Government Advocate [Crl.side]. Perused the materials available on record.

5. Learned counsel for petitioner submits that in the instant case the doctor, who conducted the postmortem of the deceased, has not been examined. The Motor Vehicle Inspector, who inspected the bus driven by the petitioner, had not been examined. The observation Mahazar had not been marked.

6. Heard learned Government Advocate [Crl.side] on the above submissions.

7. To render a finding of conviction under Section 304-A IPC, it is necessary for the prosecution to establish that the accident occurred owing to the rash and negligent driving of the vehicle by the accused. In the absence of examination of the Motor Vehicle Inspector, the possibility of the vehicle having

suffered a mechanical defect, cannot be ruled out. Similarly, in the absence of examination of the Doctor, who conducted the postmortem of the deceased, the accused would be denied the opportunity of contending and seeking to establish that the deceased came to suffer the injuries in a manner other than that put forth by the prosecution. The absence of the observation mahazar would raise a doubt even regards the very scene of occurrence.

8. For the aforesaid reasons, this Criminal Revision shall stand allowed. The judgments of Courts below shall stand set aside. As a consequence, petitioner is acquitted of all charges. Fine amount, if any paid, shall be refunded to him. Bail bond, if any, executed by petitioner shall stand cancelled. Consequently.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional District and Sessions Judge/Fast Track Court IV, Ponneri.
- 2.The Judicial Magistrate, Thiruvottiyur, Chennai
- 3.The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.64824

Cr1.R.C.No.503 of 2010

BVR(CO)
CA(12/01/2016)

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