

BAIL SLIP

Crl.R.C.No.585 of 2009 (Accused in CC.No.13/2007 on the file of the Judicial Magistrate, No.VI, Salem dated 17.4.2009) was released on bail as per order of this Court dated 3.7.2009 in M.P.No.1 of 2009 in Crl.R.C.No.585 of 2009.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No. 585 of 2009

R.Padmanaban ... Petitioner/Petitioner/Accused.

Versus

State represented by
Inspector of Police
Valapadi Police Station ... Respondent/Complainant.

Petition filed under Sections 397 read with 401 of the Criminal Procedure Code, by setting aside the orders passed by the Additional District Sessions Judge, Salem, (Fast Track Court No.1, Salem) in Criminal Appeal No.153 of 2008 dated 17.4.2009 confirming the order passed by the learned Judicial Magistrate No.VI, Salem in C.C.No.13 of 2007 dated 05.6.2008.

For Petitioner : Mr.R.Singaravelan

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

ORDER

On the basis of the complaint given by the defacto complainant/P.W.1, namely, Panchamuthu, a case in Crime No. 255 of 2005 was filed against the accused/ the petitioner herein for the offences punishable under Sections 279 and 304 (A) of IPC. After investigation, final report has been filed and the same was taken cognizance in C.C.No.13 of 2007 on the file of the Judicial Magistrate No.6, Salem. After trial, the trial court convicted the accused for the offences punishable under Section 279 and 304 (A) IPC and sentenced him to undergo six months simple imprisonment for the offence under Section 279 and to undergo simple imprisonment for two years for the offence under section 304 (A) IPC. Against which, the accused has

filed CrI.A. No. 153 of 2008 before the learned Additional District and Sessions Judge, Salem and the same was dismissed. 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 16.6.2005, at about 15.30 hours, the accused drove the transport Corporation bus bearing registration No.TN-45-N-1971 in a rash and negligent manner and dashed against Periyasamy, who was riding in his TVS-50 bearing registration No.TN-27-F-9467 and coming in the opposite direction from North to South on the left side of the Velapaddy Thamamapatti Road, near Valapaddy Girls Higher Secondary School. As a result of which, the said Periyasamy 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 was working as a driver of the State Transport Corporation and he has retired from service even in the year 2009 and if sentence of imprisonment is imposed on him, it will affect his legal right. The learned counsel also submits that the petitioner is not having any previous case and he is the sole bread winner of the family. It is submitted that the petitioner is repenting his misdeeds and is also willing to pay some compensation to the family members of the deceased. 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 bus 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. 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 279 and 304 (A) I.P.C and sentenced to undergo six months simple imprisonment for the offence under Section 279 IPC and to undergo two years simple

imprisonment for the offence under Section 304 (A) IPC. The sentences shall run concurrently.

7. On a careful perusal of the entire evidence, it is clear that the petitioner has committed the offence under Section 279 and 304 (A) IPC and the same has been established by the prosecution beyond reasonable doubt. But now the petitioner contends that he has already retired from service and if sentence of imprisonment is imposed on him, it will affect his legal right. The petitioner has voluntarily agreed to pay some compensation to the family of the deceased. But, mere compensation will not compensate the death of the person.

8. However, taking into consideration the submission of the counsel for the petitioner that the petitioner is the sole bread winner of the family, the fact that he has already retired from service and that he is not having any previous case and that he voluntarily agreed to pay some amount towards compensation, I am of the view that instead of sending him jail, he may be directed to pay some amount as compensation. Further, Section 304 (A) contemplates the question of sentence or fine or both.

9. Accordingly, while confirming the conviction imposed by the Courts below, the sentence is modified to that payment of compensation of Rs.1,00,000/-. The petitioner shall deposits a sum of Rs.1,00,000/- (Rupees One lakh only) towards compensation to the credit of C.C.No.13 of 2007 on the file of the Judicial Magistrate No.VI, Salem, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the trial Court shall hand over the said amount to the family of the deceased, on proper identification. It is also made clear that if the petitioner fails to pay the compensation amount within the time stipulated by this Court, he shall undergo the period of sentence as ordered by the Courts below.

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

ga

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.VI, Salem.

2. -do- thro'the Chief Judicial Magistrate, Salem.
3. The Additional District cum Sessions Judge, Salem
4. -do- thro'The Principal Sessions Judge, Salem.
5. The Inspector of Police, Valapadi Police Station, Valapadi.
6. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.R.Singgaravelan, Advocate SR 55077

tej(co)
prk15/10

CRL.RC.No. 585 of 2009



WEB COPY