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## Bail Slip

The Appellant/Sole Accused namely Ramu S/o. Komarasamy was ordered to be released on bail by order this Court dated 05.02.2010 and made in Mp.NO.1/2010 in CrI.Rc.77/2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.9.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No. 77 of 2010

Ramu

.. Petitioner/Accused

Versus

State represented by  
Inspector of Police  
Kunnathur Police Station  
Erode District

.. Respondent/Complainant

Petition filed under Sections 397 read with 401 of the Criminal Procedure Code, to call for the records relating to the conviction imposed in the judgment dated 14.8.2009 made in C.C.No.303 of 2008 on the file of the Additional District Court/ Fast Track Court No.1, Erode confirming the conviction imposed in the judgment dated 17.11.2008 made in C.C.No.257 of 2005 on the file of the District Munsif cum Judicial Magistrate, Perundurai and set aside the same.

For Petitioner : Mr.N.Manokaran

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, Samiyappan, a case in Crime No. 91 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.257 of 2005 on the file of the District Munsif cum Judicial Magistrate, Perundurai. After trial, the trial court convicted the accused for the offences punishable under Section 304 (A) and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.5,000/- in default, to undergo Rigorous imprisonment for three months. Against which, the accused has filed CrI.A. No. 303 of 2008 before the learned Additional District Court/ Fast Track Court No.1, Erode 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 08.5.2005, at about 11.00 a.m., on Theethambal Nal Road, the accused being the driver of the van bearing registration No.T.N.33 Z 4394 proceeding from East to west in a rash and negligent manner and dashed against one Scooterist Murugesan. As a result of which, the said Murugesan 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 is a driver and if sentence of imprisonment is imposed on him, it will affect his entire family. The learned counsel further submits that the petitioner is not having any previous case and that he is the sole bread winner of the family and he has to take care of his children. 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 pray 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. It is also submitted by the learned Government Advocate that leniency has already been shown by the Courts below by imposing minimum punishment on the accused. 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 304 (A) I.P.C and sentenced to undergo one year Rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for three months.

7. On a careful perusal of the entire evidence, it is clear that the petitioner has committed the offence under Section 304 (A) IPC and the same has been established by the prosecution beyond reasonable doubt. But now the petitioner contends that he is the sole bread winner of the family and if sentence of imprisonment is imposed on him, it will affect his entire family. The petitioner has also paid the fine amount awarded by the Courts below and is also willing 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 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.

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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 deposit a sum of Rs.1,00,000/- (Rupees One lakh only) towards compensation to the credit of C.C.No.257 of 2005 on the file of the District Munsif cum Judicial Magistrate, Perundurai, within a period of one month 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.

-sd/-

ASSISTANT REGISTRAR

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SUB-ASSISTANT REGISTRAR

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To

1. The District Munsif cum Judicial Magistrate, Perundurai
2. The Additional District Court/Fast Track Court No.1, Erode
3. The Inspector Of Police, Kunnathur Police Station,  
Erode District.
4. The Public Prosecutor  
High Court, Madras

+1 CC to Mr. N.Manokaran Advocate. SR.NO. 52983

CRL.RC.No. 77 of 2010

CO-SV