

Bail Slip

The Petitioner/Accused was directed to be released on bail by the order of this Court dated 21/10/2009 and made in Mp.1/2009 in Crl.Rc.863/2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.9.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No. 863 of 2009

M.Krishan

... Petitioner

Versus

The State rep. by the
Inspector of Police
Burgur Police Station
Krishnagiri District

.... Respondent

Petition filed under Sections 397 read with 401 of the Criminal Procedure Code, against the Judgment of the learned Principal Sessions Judge, Krishnagiri, dated 05.6.2009 in Crl.App.No.3 of 2005 confirming the judgment of the learned Chief Judicial Magistrate No.2, Dharmapuri at Krishnagiri dated 07.01.2005 in C.C.No.35 of 2005.

For Petitioner : Mr.V.Nicholas

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, Raja, a case in Crime No. 591 of 2002 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.35 of 2004 on the file of the Chief Judicial Magistrate No.II, Krishnagiri. 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 simple imprisonment for three months. Against which, the accused has filed Crl.A. No. 3 of 2005 before the learned Principal Sessions Judge, Krishnagiri 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 27.11.2002 at about 3.20 p.m., when the deceased Madhu was standing on the extreme side of the Krishnagiri to Thiruvannamalai main road at Jittandahalli bus stop along with P.W.1, the accused had driven the town bus route No.66 bearing registration No.TN.29-N-0759 in a rash and negligent manner and hit against the deceased Madhu. As a result of which, the said Madhu 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 of the State Transport Corporation and if sentence of imprisonment is imposed on him, it will affect his legal right. The learned counsel further submits that the petitioner is having only two years of service and is going to retire in another two years. The learned counsel also submits that the petitioner is not having any previous case. 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 that the petitioner has been suspended from service for two months. It is further 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 has already completed thirty years of service and is going to retire in another two years and

if sentence of imprisonment is imposed on him, it will affect his future career. The petitioner 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, the fact that he has already completed thirty years of service and that he is going to retire in another two years and that he is not having any previous case and that the petitioner has already been suspended from service for two months and that he voluntarily agreed to pay some amount towards compensation, I am of the view that some leniency can be shown to the petitioner in reducing the sentence. 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 deposit a sum of Rs.1,00,000/- (Rupees One lakh only) towards compensation to the credit of C.C.No.35 of 2004 on the file of the Chief Judicial Magistrate No.II, Dharmapuri at Krishnagiri, within a period of three months 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 (CS-II)

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SUB-ASSISTANT REGISTRAR

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To

1. The Chief Judicial Magistrate No.2, Dharmapuri, Krishnagiri
2. The Principal Sessions Judge, Krishnagiri.
3. The Inspector of Police, Burgur Police Station, Krishnagiri
4. The Public Prosecutor, High Court, Madras

+1 CC to MR.V.Nicholas ADVOCATE. SR.NO. 48415