



Bail Slip:- M.P.No.2/2010 in CrI.R.C.No.97 of 2010

The Appellant/ Accused Viz., Krishnan aged about 26 years S/o.Madhayan was directed to be released on bail as per order of this court dated 2.2.2010 in M.P.No.2 of 2010 in CrI.R.C.No.97/2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2015

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THE HONOURABLE MR. JUSTICE B.RAJENDRAN

CRL.R.C.No.97 of 2010

Krishnan

... Petitioner/
Appellant/Accused

Vs.

State by Inspector of Police,
Kolathur Police Station. ...
(Crime No.225/07)

Respondent/ Respondent/
complainant

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code to set aside the judgment dated 23.06.2009 in C.C.No.164 of 2007 on the file of Judicial Magistrate Court No.I, Mettur Dam and the same was confirmed in the judgment dated 01.12.2009 in C.A.No.66 of 2009 on the file of the Additional District and Sessions Court [Fast Track Court No.II], Salem.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.V. Arul
Government Advocate [Crl.Side]

O R D E R

The petitioner is the sole accused in C.C. No.164 of 2007 on the file of the Judicial Magistrate Court No.I, Mettur Dam and he has been convicted for offences under Sections 279 and 304[A] IPC and sentenced to undergo rigorous imprisonment for a period of three months Sections for offence under Section 279 IPC and sentenced to undergo rigorous imprisonment for a period of six months for offence under Section 304[A] IPC and to pay a fine of Rs.3000/-, in default, to undergo simple imprisonment for two months. As against the conviction and sentence imposed, the petitioner filed CrI. Appeal No.66 of 2009 and the Additional District and Sessions Court [Fast Track Court No.II], Salem by



judgment dated 01.12.2009 confirmed the same. Aggrieved by the same, the present Criminal Revision Case is filed.

2.The case of the prosecution is that on 12.08.2007, at about 4.00p.m., one Nallusami was proceeding from Paler to Kolathur in his two wheeler bearing registration No.TN-34-9756 along with his wife, namely, Kannammal as pillion rider and his vehicle came to be stopped owing to fuel went dry and hence, he was pushing and moving his two wheeler towards Kolathur, at that time, the Minidor Auto bearing Registration No.TN-30-Z-0456 being driven by its driver, came from opposite direction in a rash and negligent manner and dashed against the deceased Nallusami alias Kunjappan and as a result, the deceased died on the spot and then only stopped after hitting the road side tree. Hence, the complaint.

3.Learned Counsel appearing for the petitioner would submit that there is a delay in filing the F.I.R. The trial court has failed to consider that P.W.1 is alleged to have made a complaint on 12.08.2007, at about 18.00 hours, however it was registered and signed by the concerned police official on 13.08.2007, which shows the complaint was registered on 13.08.2007 only, not on 12.08.2007. Therefore, there is a discrepancy in filing the F.I.R. He would further submit that the trial court has not considered the contrary statements or evidences of the witness. Accordingly, he would pray for setting aside the conviction and sentence ordered by the Courts below.

4.Learned Government Advocate for the respondent would submit that both the Courts below only after analysing the entire oral and documentary evidence adduced, convicted the petitioner/accused, warranting no interference in this revision.

5.Heard both sides and perused the records.

6.On a careful consideration of the judgments passed by both the Courts below, it is seen that the Courts below have convicted the petitioner/accused only after considering the aspects including the complaint given by P.W.1, who is the wife of the deceased stating that she is behind her husband at the time of occurrence because there was no petrol, he was taking the vehicle on the road. At that time, the vehicle came and hit the deceased. It is seen that she gave complaint on 12.08.2007, at about 6.30p.m., P.W.11 Investigating Officer, who received Ex.P.1 has registered a case against the driver of the mini door lorry under Sections 279 and 304[A] IPC. Hence, I do not find any reason to interfere with the reasoned order passed by the Courts below in convicting the petitioner/accused under Sections 279 and 304[A] IPC.

7.At this juncture, since the learned counsel for the petitioner/accused prayed this Court to show leniency in the matter of awarding sentence by modifying the same as compensation and also



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taking into account the fact that the respondent/complainant is also agreeable for the same, the sentence of rigorous imprisonment imposed for a period of six months is modified and that the petitioner/accused is directed to pay a sum of Rs.1,00,000/- [Rupees one lakh only], as compensation.

8. Accordingly, the conviction ordered by both the Courts below is confirmed and the sentence awarded to undergo rigorous imprisonment for a period of six months is modified. However, the petitioner/accused is directed to pay a sum of Rs.1,00,000/- [Rupees one lakh only], as compensation, to the deceased family, within a period of eight weeks from the date of receipt of a copy of this order. And on such deposit, the amount will be disbursed to the legal heirs of the deceased after ascertaining and on application. In the event of failure to pay the amount ordered now and that too, within the time stipulated by this Court, the petitioner/accused has to undergo rigorous imprisonment for a period of six months as ordered by the trial court and confirmed by the first appellate court. In such event, the trial court shall take appropriate steps as are necessary to secure the presence of the petitioner/accused to undergo the sentence of six months rigorous imprisonment.

9. With the above modification, the Criminal Revision Petition is partly allowed.

Sd/-
Asst. Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1. The Judicial Magistrate Court No.I,
Mettur Dam.

2. The Chief Judicial Magistrate
Salem

3. The Additional District and Sessions Court
[Fast Track Court No.II], Salem.

4. The Additional Public Prosecutor,
High Court of Madras,
Chennai.



5. The Inspector of Police
Kolathur Police station

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1 cc to Mr.R.Nalliyappan, Advocate, Sr. 58993

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CA (CO)
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