

BAIL SLIP

The Appellant /Accused Viz., Muniraj, aged 52 years, S/o.Giri Gowda, was directed to be released on bail as per Order of this Court dated 12/4/2013 in MP.NO.1/2013 in CrI.R.C.No.482/13.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2015

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.R.C.No.482 of 2013

and

M.P.Nos.1,2 of 2013

Muniraj

... Petitioner/Appellant/
Accused

vs

State represented by
The Inspector of Police
T.I.Wing, Hosur
Krishnagiri District
Crime No.49/2009

... Respondent/Respondent/
Complainant

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned Principal District Sessions Judge, Krishnagiri, passed in C.A.No.47 of 2011 on 28.06.2015, confirming the judgment of learned Judicial Magistrate II, Hosur, passed in C.C.No.69 of 2010 on 09.06.2011.

For Petitioner : Mr.V.Rajamohan

For Respondent : Mr.C.Iyyapparaj, G.A.(CrI)side

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offences u/s.279 and 304-A, IPC and sentencing him to pay a fine of Rs.500/- for offence u/s.279 IPC and 6 months R.I. for offence u/s.304-A IPC

and fine of Rs.5000/- i/d 2 months S.I.

2. The prosecution case is that the petitioner drove car bearing registration No.KA-03-MJ-444 in a rash and negligent manner and hit against one Gudingaraj, who fell down and met his death on 22.02.2009 at about 1.45 p.m. A case was registered in crime No.49 of 2009. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.279 and 304-A IPC, the case was tried in C.C.No.69 of 2010 on the file of learned Judicial Magistrate II, Hosur.

3. Before the trial Court, the prosecution examined ten witnesses and marked seven exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, the trial Court, under judgment dated 09.06.2011, convicted the petitioner for offences u/s.304-A and 279 IPC and sentenced him to undergo 6 months R.I. for offence u/s.304-A IPC and fine of Rs.5000/- i/d 2 months S.I, for offence u/s.279 to pay a fine of Rs.500/-. There against, the petitioner preferred an appeal in C.A.No.47 of 2011 on the file of learned Principal District Sessions Judge, Krishnagiri, which came to be dismissed under judgment dated 28.06.2012. Hence, this revision.

4. Learned counsel for petitioner submits that there is no direct evidence of the petitioner having driven the car in a rash and negligent manner. Upon submission of the learned counsel for petitioner that a sum of over Rs.11,00,000/- has been paid by the petitioner to the defacto complaint/wife of the deceased, pursuant to an order passed by the Motor Accidents Claims Tribunal (Principal District Judge) Krishnagiri in M.C.O.P.No.964 of 2009, this court has required the presence of the defacto complainant towards affirmation of such position. The defacto complainant is present before us today. As she converses only in Telugu we have asked learned senior member of the bar Mr.T.Muniratnam Naidu to ascertain from her the position. She has affirmed receipt of a sum of Rs.11,31,600/-.

5. Heard learned Government Advocate [Crl.side] and submissions of learned counsel for petitioner.

6. In the present case, though the accident has resulted in the death of a person, we are unable to sustain the finding of conviction, when there is no evidence of the petitioner having driven the vehicle in a rash and negligent manner. It is only

such act that would attract offence u/s. 279 and 304-A IPC.

7. This Criminal Revision is allowed. The judgment of learned Principal District Sessions Judge, Krishnagiri, passed in C.A.No.47 of 2011 on 28.06.2015, confirming the judgment of learned Judicial Magistrate II, Hosur, passed in C.C.No.69 of 2010 on 09.06.2011, is set aside. Petitioner is acquitted of all charges. Fine amount, if any, paid by petitioner shall be refunded. Bail bonds, if any, executed by petitioner shall stand cancelled. Connected miscellaneous petitions are closed. The submission that the petitioner will not reclaim any sum paid by him is recorded.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Principal District Sessions Judge, Krishnagiri,
2. The Judicial Magistrate II, Hosur
3. The chief Judicial Magistrate Krishnagiri
4. The Inspector of Police, T.I.Wing, Hosur, Krishnagiri District
5. The Public Prosecutor, High Court, Madras

+1 cc to Mr.N.Mohideen Basha Advocate sr.69019/15

Cr1.R.C.No.482 of 2013

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aa09/03/2016

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