

BAIL SLIP

The Accused ie., Marimuthu in Crl.RC.No.1270 of 2010 (Sole Accused in C.C.No.242 of 2003, on the file of the Judicial Magistrate, Palladam) was released on bail, vide order of this Court dated 09.03.2011 made in Crl.M.P.No.2 of 2010 in Crl.RC.No.1270 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2016

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THE HONOURABLE MR. JUSTICE C.T.SELVAM

CRL.RC.No.1270 of 2010

Marimuthu ...Petitioner/Appellant/Accused

Versus

The Inspector of Police
Palladam Police Station
Coimbatore District.

...Respondent/Respondent/Complainant

Criminal Revision filed under section 397 and 401 Cr.P.C., against the Judgment passed in CA.No.45/2010 dated 30.07.2010 in the file of the learned Additional District and Sessions Judge, Fast Track Court, No.V, Tiruppur, confirming the order passed in CC.No.242/2003 by order dated 11.03.2010 by the learned Judicial Magistrate, Palladam.

For Petitioner : No representation

For Respondent : Mr.C.Iyyapparaj,
Government Advocate [Crl.Side]

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ORDER

Challenging the judgment of conviction and sentence passed by the learned Judicial Magistrate, Palladam in CC.No.242/2003 dated 11.03.2010 as confirmed by the learned Additional District and Sessions Judge, Fast Track Court, No.V, Tiruppur in CA.No.45/2010 dated 30.07.2010, the present revision has been filed.

2. In brief, the case of the prosecution is that on 11.03.2003 at about 1.45 p.m., a Lorry bearing Registration No.TN-23-B-1323 driven by the petitioner/accused, in a rash and negligent manner, from West to East on the Coimbatore-Palladam Main Road, at Samigoundanpalayam, hit a cyclist causing his death on the same day at 5.15 p.m. A case in Crime No.121/2003 on the file of the respondent was registered. 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.232/2003 on the file of learned Judicial Magistrate, Palladam.

3. Before the trial Court, the prosecution examined ten witnesses and marked seven exhibits. None were examined and no documents were marked on behalf of the defence. On appreciation of materials before it, the trial Court, under judgment dated 11.03.2010, convicted the accused for the offences as stated above and sentenced him to undergo six months simple imprisonment for the offence u/s.279 IPC and to undergo one year simple imprisonment and to pay a fine of Rs.3000/- and in default, to undergo one month simple imprisonment for the offence u/s.304[A] IPC.

4. Upon appeal, the Lower Appellate Court confirmed the aforesaid conviction and sentence, constraining the accused/petitioner to approach this Court by way of revision.

5. There is no representation on behalf of the petitioner/accused. Heard the learned Government Advocate [Crl.side] for the respondent and perused the materials placed before this Court.

6. A perusal of the Judgments of the Courts below and the documents/Exhibits and the evidence of the prosecution witnesses, warrants interference by this Court. The revision is to be allowed for the following reasons:-

[a] P.Ws.1 and 5 are the alleged eyewitnesses to the occurrence/accident. P.W.1 has deposed of having informed the police over phone on the date of occurrence, viz., 11.03.2003 and of going over to the Police Station on the next day to register the First Information Report [Ex.P.1]. It is admitted case that the driver of the lorry is a stranger to P.W.1. In Ex.P.1, it has been stated that P.W.1 is informant. Ex.P.1 informs the name of this petitioner/accused as the driver of the lorry. It is also admitted by P.W.1 that the complaint was written by one Vivek who has not been examined. It, therefore is apparent that Ex.P.1 is the product of deliberation.

[b] P.W.5, the other eyewitness has admitted in his cross-examination to not knowing the manner in which the accident took place. He has informed of having fainted upon seeing the same. Under such circumstances, benefit of doubt is to be given to the petitioner/accused.

7. Accordingly, the Criminal Revision is allowed and the judgments of the Courts below, viz., the judgment of the trial court in CC.No.242/2003 dated 11.03.2010 and the Judgment of the Lower Appellate Court in CA.No.45/2010 dated 30.07.2010 are hereby set aside.

8. It is reported that the sentence of the petitioner/accused has been suspended by this Court. Hence, the bail bond, if any, executed by him, shall stand terminated. Fine amount if any paid, shall be refunded to the accused/petitioner.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Additional District & Sessions Judge
FTC-V, Tiruppur.
2. The Judicial Magistrate,
Palladam.
3. The Chief Judicial Magistrate,
Coimbatore.
4. The Inspector of Police
Palladam Police Station
Coimbatore District.
5. The Public Prosecutor
High Court, Madras.

Cr1.RC.No.1270 of 2010

GJ(CO)
CA(03/02/2016)