

Bail Slip

The Petitioner herein namely R.Manoharan, Accused in CC NO.177/06 on the file of the Judicial Magistrate No.III, Salem, was released on bail as per the Order of this Court dated 7.7.10 and made in M.P.No.1 of 10 in Crl. R.C.665/10.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2016

CORAM:

THE HONOURABLE MR. JUSTICE C.T. SELVAM

Crl.R.C.No.665 of 2010

R.Manoharan

... Petitioner

vs.

The Inspector of Police,  
Traffic Investigation Wing,  
Salem City, Salem.  
Cr.No.633 of 2004

... Respondent

Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the order dated 30.03.2010 in C.A.No.32/2010 on the file of the Additional District and Sessions Judge (FTC 1), Salem confirming the judgment and sentence dated 30.01.2010 passed in C.C.No.177 of 2006 on the file of the Judicial Magistrate III, Salem and set aside the same and consequently acquit the petitioner from all charges.

For Petitioner : Mr.R.Neethi Perumal

For Respondent : Mr.C.Iyyapparaj,  
Government Advocate (Crl. Side)

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offences u/s.279, 337 (4 counts), 338 (4 counts) and 304-A IPC and sentencing him to undergo 6 months S.I for offence u/s.279 IPC, 6 months S.I. on each count for offence u/s.337 (4 counts) IPC, 8 months S.I. on each count for offence u/s.338 (3 counts) IPC and 1 year S.I. and fine of Rs.1,000/- i/d 3 months S.I. for offence u/s. 304-A IPC.

2. The case of the prosecution is that on 25.11.2004 at about 10.00 p.m., the petitioner rashly had driven a Car inside the Government Moham Kumaramangalam Medical College Hospital, Salem and dashed against persons working there, as a result of which one person died and six others were injured. A case was registered in Crime No.633 of 2004 on the file of respondent and upon completion of investigation, a charge sheet was filed informing commission of offences under Sections 279, 337, 338 and 304-A IPC. The case was tried in C.C.No.177 of 2006 on the file of learned Judicial Magistrate III, Salem.

3. Before the trial Court, the prosecution examined nineteen witnesses and marked twenty five 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 30.01.2010, rendered a finding of conviction for offences u/s.279, 337 (4 counts), 338 (4 counts) and 304-A IPC and sentenced the petitioner to undergo 6 months S.I for offence u/s.279 IPC, 6 months S.I. on each count for offence u/s.337 (4 counts) IPC, 8 months S.I. on each count for offence u/s.338 (3 counts) IPC and 1 year S.I. and fine of Rs.1,000/- I/d 3 months S.I. for offence u/s. 304-A IPC. There against, the petitioner filed an appeal in C.A.No.32 of 2010 on the file of learned Additional District and Sessions Judge (FTC 1), Salem, which came to be dismissed under judgment dated 30.03.2010. There against, this revision.

4. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

5. Learned counsel for petitioner submits that the vehicle involved in the accident belonged to a Doctor, a physically challenged person, he having suffered amputation of both legs. The owner, viz., the Doctor, had parked his vehicle at the hospital, where he worked and required that the same may be serviced. This petitioner, an employee of APT Auto Service, was deputed to collect the vehicle for such purpose. He obtained the key from the receptionist and proceeded to drive the vehicle away for the purpose informed. On starting the vehicle and pressing the clutch pedal, the vehicle moved, and lunged forward, resulting in the accident. The petitioner was not aware that the clutch pedal have been modified as an accelerator for the purpose of the Doctor, a physically challenged person. The hand brake was also not functional. These two mechanical aspects find support in the Motor Vehicle Inspector's Report. Submitting thus, learned counsel for petitioner seeks to set aside the judgment under challenge.

6. Learned counsel for petitioner is found right on his submissions on facts. No evidence has been let him to inform that the petitioner was aware of the special nature of the

vehicle. In the circumstances, the petitioner would be entitled to the benefit of doubt.

7. In the result, this Criminal Revision shall stand allowed. The judgment of learned Additional District and Sessions Judge (FTC 1), Salem, passed in C.A.No.32 of 2010, on 30.03.2010 confirming the judgment of learned Judicial Magistrate III, passed in C.C.No.177 of 2006 on 30.01.2010 shall stand set aside. Petitioner is acquitted from all charges. Fine, if any, paid by the petitioner shall be refunded. Bail bonds, if any, executed by him shall stand cancelled.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional District and Sessions Judge (FTC 1), Salem.
- 2.The Judicial Magistrate III, Salem.
- 3.The Chief Judicial Magistrate, Salem(For information)
- 4.The Superintendent, Central Prison, Salem.
- 5.The Inspector of Police, Traffic Investigation wing, Salem District.
- 6.The Public Prosecutor, High Court, Madras-104.

+2cc to Mr.R.NeethiPerumal, Advocate Sr.694

Cr1.R.C.No.665 of 2010

kgk(CO)  
srg(09/02/2016)