



BAIL SLIP

The Petitioner/Accused namely Sankar, aged 31 years S/o.Kathan is directed to be released on bail as per order of this Hon'ble court dt.18.1.2011 in Crl.MP.1/2011 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.58 of 2011

Sankar ..
Petitioner/Appellant/Accused

Vs

State. Rep. by
The Inspector of Police,
Thiruvarur Town Police Station,
Thiruvarur. ..Respondent/Respondent/Complainant

Prayer:-

This Criminal Revision is filed under Section 397 & 401 of Cr.P.C., against the conviction and sentence passed by the District and Sessions court, Thiruvarur in the judgment dated 21.10.2010 in C.A.No.20 of 2009 confirming the conviction and sentence passed by the learned Judicial Magistrate, Thiruvarur in C.C.No.665 of 2004 dated 13.11.2009.

For petitioner : Mr.K.Subburam

For respondent : Mrs. M.F.Shabana,
Gov. Advocate (Crl. Side)

O R D E R

The petitioner is the sole accused in C.C.No.665 of 2004 on the file of the Judicial Magistrate Court, Thiruvarur. He stood charged for an offence under Section 304-A IPC. The Trial court, convicted and sentenced him to undergo simple imprisonment for 3 months and to pay a fine of Rs.2000/-, in default, to undergo simple imprisonment or one month. Challenging the above said conviction and sentence, the petitioner/accused, filed an appeal in C.A.No.20/2009 on the file of the District and Sessions Court, Thiruvarur, the lower appellate court, dismissed the appeal and confirmed the conviction and sentence imposed by the trial court. Aggrieved by the same, the petitioner/accused is before this court with



this revision petition.

2. The case of the prosecution, in brief, is as follows:-

On 07.05.2004, at about 8.30 p.m., when the deceased Soundararajan was walking on the Thiruvarur bye-pass road, near Mallika Mahal Hall, on the southern side of east-west road, a lorry bearing registration No.K.L.04 G 2815 driven by the petitioner/accused, came in a rash and negligent manner and dashed against the deceased from his behind and the deceased suffered severe injuries. Then he was taken to the Government Hospital, Thiruvarur and from there, he was referred to the Government Medical College Hospital, Tanjavur, where he succumbed to injuries at about 11.00 p.m. Then, P.W.1, who is an eye-witness to the occurrence lodged a complaint before the respondent police, based on the same, P.W.7, Sub-Inspector of Police, registered a case in Crime No.211 of 2004, for an offence under Section 304-A IPC. Then, he proceeded to the scene of occurrence and prepared an observation mahazar, Ex.P.2, and drew a rough sketch, Ex.P.6. Thereafter, he conducted inquest on the dead body of the deceased in the Government Medical College Hospital, Tanjavur, and sent the dead body for postmortem. P.W.8, Inspector of Police, continued the investigation, recorded the statement of doctor, who conducted postmortem on the dead body and also the Motor Vehicle Inspector, who inspected the lorry and after completion of investigation, he laid charge sheet against the accused.

3. Considering the above materials, the trial Court framed the charge as mentioned in the first paragraph of the order and the accused denied the same. In order to prove its case, on the side of the prosecution, as many as 8 witnesses were examined and 7 documents were exhibited.

4. Out of the witnesses examined, P.Ws.1 and 2 are eye-witnesses to the occurrence. According to them, while they were standing in the Thiruvarur bye-pass road, near Mallika Mahal, the lorry came in a rash and negligent manner and dashed against the deceased, who was walking in the left side of the road, and caused serious injuries on his ankle and back, and immediately, they took the deceased to the Government Hospital, Thiruvarur, where he was referred to the Government Hospital, Tanjavur and then, P.W.1 has given a complaint.

5. P.W.3 is the witness to the observation mahazar. P.W.4, Doctor, conducted postmortem on the dead body of the deceased at the Government Medical College Hospital, Tanjavur. P.W.5, Motor Vehicle inspector, who inspected the offending lorry and has given a report that there is no mechanical failure in the offending lorry. P.W.6, Head



Constable, who accompanied the deadbody of the deceased to the Government Medical College Hospital, Tanjavur and identified the same, for postmortem, to the Doctor. P.W.7, Sub-Inspector of Police, who registered the complaint, commenced investigation and conducted inquest on the dead body of the deceased. P.W.8, Inspector of Police, continued the investigation and recorded the statements of the witnesses. After completion of investigation, he laid charge sheet against the accused.

6. When the above incriminating materials were put to the accused, he denied the same. However, he did not examine any witness nor marked any documents.

7. Having considered all the above materials, the trial Court convicted the petitioner/accused as mentioned in the first paragraph of the order. Challenging the same, the petitioner preferred an appeal before the District and Sessions Judge, Thiruvarur and the lower appellate court dismissed the appeal by confirming the judgment of the trial court. Aggrieved by the same, the petitioner/accused is before this court with this present revision.

8. I have heard Mr. K.Subburam, learned counsel appearing for the petitioner and Mrs. M.F.Shabana, learned Govt. Adv.(crl. Side) appearing for the respondent.

9. There are two eye-witnesses to the occurrence. Both P.Ws.1 and 2 are independent witnesses and they consistently stated that while the deceased was walking in the left side of the road, the offending lorry, which was driven by the petitioner/accused came in a rash and negligent manner and dashed against the deceased from his behind and caused serious injuries. Then, the deceased was admitted in the hospital, subsequently, P.W.1 has given a complaint and no motive was attributed against them. P.W.5, Motor Vehicle Inspector, inspected the offending lorry and has given a certificate that there is no mechanical failure in the offending lorry.

10. Considering all the above materials, both the courts-below held that it is only this accused who had driven the offending lorry in a rash and negligent manner and dashed against the deceased and caused the death of the deceased. Hence, I find no illegality or perversity in the judgment passed by the courts-below.

11. So far as the quantum of the sentence is concerned, the petitioner/accused was sentenced to undergo simple imprisonment for 3 months. The learned counsel appearing for the petitioner submitted that the petitioner/accused was already in jail for 40 days and he is a poor man and he has a big family to maintain and the occurrence took place in the year 2004. Considering all the



above mitigating, as well as, the aggravating circumstances, the sentence is modified to that of the period already undergone.

12. Accordingly, this Criminal Revision Case is partly allowed and the conviction imposed on the petitioner by the courts-below are confirmed and the sentence is modified to that of the period already undergone by the revision petitioner.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1. The Judicial Magistrate
Thiruvarur.
- 2.The Chief Judicial Magistrate, Tiruvarur.
3. The District and Sessions Judge,
Thanjavur.
- 4.The Superintendent, Central Prison, Tirchy.
5. The Public Prosecutor,
High court, Madras.
- 6.The Inspector of Police,
Tiruvarur town police Station,
Tiruvarur.

+1 cc to mr.K.Subburam, advocate,sr.3794.

nmi(co)
krd 10/3

Crl.R.C.No.58 of 2011