

Bail Slip

Gajapathy

The above mentioned petitioner was directed to be released on bail as per order of this Court dated 29/06/2011 made in Crl.MP.NO.1/2011 in CRL.RC.NO.748/2011 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2017

Coram:

The Honourable Mr. Justice C.T. SELVAM

Crl.R.C.No. 748 of 2011

Mr. Gajapathy

S/o. Thirumalai Naidu

...Petitioner/Single Accused

Versus

State rep. by

The Inspector of Police,  
Thiruthani Police Station,  
Thiruvallur District.

...Respondent/Complainant

This Criminal Revision Petition is filed under Section 397 & 401 of Cr.P.C praying to set aside the order and judgment passed in C.A.No.44/2010 dated 19.05.2011 on the file of the Additional Sessions Judge, III Fast Track Court, Thiruvallur against C.C.No.145/2007 dated 19.05.2010 on the file of the Judicial Magistrate, Thiruthani.

For Petitioner : Mr. T. Muruganantham

For Respondent : Mr.V.Arul,  
Additional Public Prosecutor

O R D E R

This revision is preferred against the judgment passed in C.A.No.44/2010 dated 19.05.2011 on the file of the Additional Sessions Judge, III Fast Track Court, Thiruvallur.

2. Petitioner faced prosecution for offence u/s. 304(A) IPC in case tried in C.C.No.145 of 2007 on the file of learned Judicial Magistrate, Thiruthani. The prosecution case was that on 21.01.2006 at about 19:30 hours, when the deceased girl by name Jothika, aged 4 years, was standing near her house, a bus bearing Registration No.TN.21.N.0245 proceeding from Thiruthani to Sholingur, driven in a rash and negligent manner, hit the child resulting in her instantaneous death. On the complaint of P.W.1, case was registered in Thiruttani Police Station Crime No.65/2006. Upon completion of investigation, a charge sheet was filed before learned Judicial Magistrate, Thiruttani.

3. Before trial court, prosecution examined 11 witnesses and marked 8 exhibits. None were examined on behalf of the defence nor were any exhibits marked.

4. On appreciation of materials before it, trial Court convicted petitioner/accused for offence under Section 304(A) IPC and sentenced him to 6 months S.I. Against such finding, petitioner/accused preferred an appeal in C.A.No.44 of 2010 on the file of learned Additional Sessions Judge, Fast Track Court No.III, Thiruvallur and the same was dismissed under judgment dated 19.05.2011. There against, this revision.

5. Heard learned counsel for petitioner and the learned Additional Public Prosecutor for respondent.

6. Ex.P.1 is the complaint, which does not inform the name of the driver of the bus. In the course of examination, P.W.1 has admitted to knowing the revision petitioner/accused by name, since, revision petitioner/accused had been a driver on the same route for a period of 10 years. It is the evidence of P.W.3, father of the child that the case came to be registered on the complaint preferred by him. When such is the evidence of P.W.3, father of the child, the question of suppression of original complaint does arise. Most importantly, the occurrence took place at 07:30 p.m on 21.01.2006, that is during night hours. Though the accused has not raised a question on a child aged 4 years being out on the road at such time, there is every possibility of her suddenly being upon the road as a result of negligence of elders/parents, who have a duty to avoid such act. In such view of the matter, the finding of conviction cannot be sustained.

7. In the result, this Criminal Revision is allowed and the judgment passed in C.A.No.44 of 2010 dated 19.05.2011 on the file of the learned Additional Sessions Judge, III Fast Track Court, Thiruvallur shall stand set aside.

mrr

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Sub-Assistant Registrar

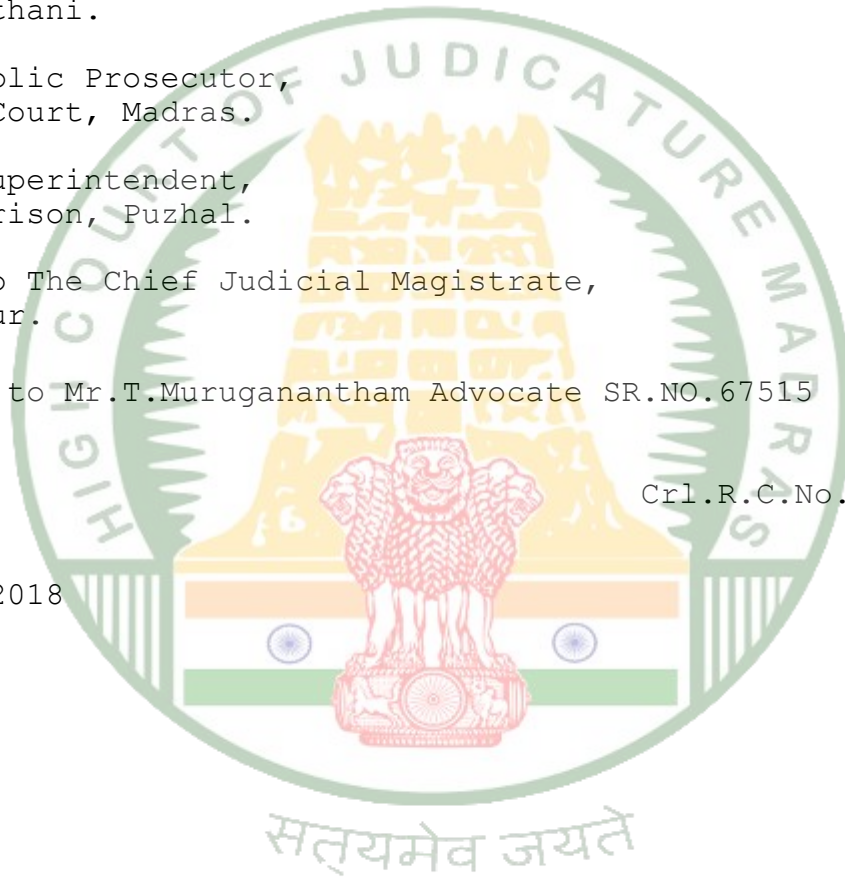
To

1. The Inspector of Police,  
Thiruthani Police Station,  
Thiruvallur District.
2. The Additional Sessions Judge,  
III Fast Track Court,  
Thiruvallur
3. The Judicial Magistrate,  
Thiruthani.
4. The Public Prosecutor,  
High Court, Madras.
5. The Superintendent,  
Central Prison, Puzhal.
6. Do Thro The Chief Judicial Magistrate,  
Thiruvallur.

+1CC to Mr.T.Muruganantham Advocate SR.NO.67515

Cr1.R.C.No.748 of 2011

KS[CO]  
MK:26/03/2018



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