



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Eleventh day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

WEB COPY

CRL MP (MD) No.7325 of 2017
IN
CRL RC (MD) No.645 of 2017

GOPALAKRISHNAN

... PETITIONER/PETITIONER

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
UTHIRAKOSAMANGAI POLICE STATION,
RAMANATHAPURAM DISTRICT
(CR.NO.34 OF 2011)

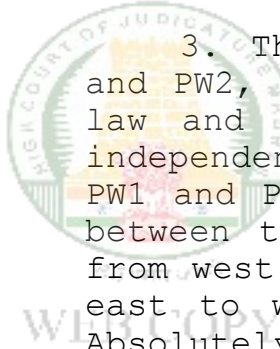
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence passed by the Learned Chief Judicial Magistrate, Ramanathapuram in C.C.No. 29 of 2014 dated 03.07.15 which was confirmed and partly allowed by the Learned Principal Sessions Judge, Ramanathapuram in Crl.App.No.23 of 2015 dated 29.09.2016 and enlarges the petitioner on bail pending revision

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.K.MANICKAM, Advocate for the petitioner and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

The petitioner stood convicted for an offence under Section 304(A) I.P.C., and sentenced to undergo two years rigorous imprisonment and also a fine of Rs.5,000/-, in default to undergo four months simple imprisonment and also stood convicted for the offence under Section 279 I.P.C., and to pay fine of Rs.500/-, in default to undergo one month simple imprisonment, in C.C.No.29 of 2014, on the file of the learned Chief Judicial Magistrate, Ramanathapuram. Challenging the same, he preferred an appeal in Crl.A.No.23 of 2015 on the file of the learned Principal Sessions Judge, Ramanathapuram. The lower appellate court partly allowed the appeal, confirming the conviction and sentence passed by the trial court. Challenging the same, the petitioner has filed Crl.R.C(MD). No.645 of 2017. Pending revision, in order to suspend the conviction and sentence imposed on the petitioner, the present petition has been filed.

2. I have heard Mr.A.K.Manickam, the learned Counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.



3. The learned counsel for the petitioner submitted that PW1 and PW2, who are the eyewitnesses of the occurrence is the son-in-law and daughter of the deceased. Apart from that there is no independent evidence has been examined. Even from the evidence of PW1 and PW2, it is only a narrow village road and there is no gap between the house and while the deceased was walking towards east from west at the northern side of the road, the bus which came from east to west, without blowing horn, dashed against the deceased. Absolutely there is no evidence to prove that the petitioner has driven the vehicle in a rash and negligent manner and the accident has taken place due to the negligence of the deceased. Without considering all these facts the trial Court convicted the petitioner.

4. I have considered the rival submissions and also considered the materials available on record.

5. Considering the facts and circumstances of the case and since there are some arguable points involved in the revision and it may take a long time for taking up the revision for final hearing, I am constrained to suspend the sentence of imprisonment alone imposed against the petitioner.

6. In fine, this petition is allowed. The sentence imposed in C.C.No.20 of 2014, confirmed in CrI.A.No.23 of 2015 alone is suspended till the disposal of CrI.R.C(MD)No.645 of 2017. The petitioner will be released on bail on executing a bond to the tune of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for the like sum to the satisfaction of the learned Chief Judicial Magistrate, Ramanathapuram with a further condition that the petitioner shall report before the said Court on the first working day of every English Calendar month at 10.30 a.m., till the disposal of this Criminal Revision or until further orders.

sd/-

11/08/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE PRINCIPAL SESSIONS JUDGE, RAMANATHAPURAM.
- 2 THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM
- 3 THE INSPECTOR OF POLICE,
UTHIRAKOSAMANGAI POLICE STATION, RAMANATHAPURAM DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.A.K.MANICKAM Advocate SR.No.28623

ORDER IN

CRL MP(MD) No.7325 of 2017 IN

CRL RC(MD) No.645 of 2017

Date :11/08/2017