



BAIL SLIP

The Petitioner/Petitioner (Accused) viz., Raju, aged 55 years, S/o.Soorayanarayanan, was directed to be released on bail as per order dated 12/12/2013 made in CrI.M.P.No.1 of 2013 in CrI.R.C.No.1555 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Revision No.1555 of 2013

Raju .. Petitioner / Appellant /  
Accused

Vs

State rep. by  
The Inspector of Police (L & O),  
T-12, Poonamallee Police Station,  
Thiruvallur. .. Respondent / Respondent /  
Complainant

Prayer:- Criminal Revision filed under Section 397 (1) Cr.P.C., to set aside the judgment dated 11.11.2013 made in C.A.No.12 of 2013 on the file of the learned II Additional Sessions Judge, Thiruvallur at Poonamallee, modifying the judgment dated 01.02.2013 made in C.C.No.44 of 2009 on the file of the learned Judicial Magistrate II, Poonamallee convicting the petitioner for the offence under Section 304(A) IPC and sentenced him to undergo Rigorous Imprisonment for one month instead of one year and confirm the fine of Rs.2,000/- and in default of payment of fine to undergo one month simple imprisonment by allowing CrI.R.C.

For Petitioner : Mr.K.Kannan

For Respondent : Mr.R.Ravichandran,  
Govt. Advocate (Criminal side)

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O R D E R

The present criminal revision has been filed to set aside the judgment dated 11.11.2013 made in C.A.No.12 of 2013 on the file of the learned II Additional Sessions Judge, Thiruvallur at



Poonamallee, modifying the judgment dated 01.02.2013 made in C.C.No.44 of 2009 on the file of the learned Judicial Magistrate II, Poonamallee.

(ii) The accused stood charged for the offence under Section 304(A) IPC in C.C.No.44 of 2009. The trial Court, by judgment dated 01.02.2013 convicted the petitioner for the offence under Section 304(A) IPC and sentenced him to undergo Rigorous Imprisonment for one year and pay fine of Rs.2,000/- and in default to undergo one month simple imprisonment. Challenging the said conviction and sentence, the accused filed Criminal Appeal No.12 of 2013. The learned appellate Judge by judgment dated 11.11.2013 in CrI.A.No.12 of 2013 modified the sentence awarded by the trial Court to one month Rigorous Imprisonment from one year Rigorous Imprisonment but, confirmed the fine amount. Aggrieved by the same, the present Criminal Revision has been filed before this Court.

## 2.The case of the prosecution is as follows :-

(i) The accused was employed as driver and has driven the lorry belonging to Rajam Industries Private Limited bearing Registration No.AP 27 W 5659 in a rash and negligent manner and driven the said lorry on its reverse gear and dashed against the wall and the lorry contacted with a live electric wire and as such one co-worker of the accused by name Ashok kumar served as cleaner in the said lorry died due to electrocution. Hence, P.W.1 lodged complaint before the Sub Inspector of Police, Poonamallee Police Station.

(ii) On receiving such complaint, P.W.7, the Sub Inspector of Police registered a case in Cr.No.935 of 2007 under Sections 279 and 304(A) IPC under Ex.P.5. He went to the scene of occurrence and prepared observation magazar Ex.P.6 and Rough Sketch Ex.P.7 in the presence of P.W.3 Jeyakumar and P.W.4 Gopal. He also recorded the statements of other witnesses. He prepared the inquest report Ex.P.2 in the presence of panchayatars. Viscera was also sent to the chemical examination.

(iii) He also recorded the statement of Sendhoorvel, Motor Vehicle Inspector P.W.6 and received a report Ex.P.4. After completion of the enquiry, he filed the charge sheet under Sections 279 and 304(A) IPC.

3. Based on the above materials, the trial Court framed charges as detailed in the first paragraph of the order. In order to prove the case of prosecution, as many as 7 witnesses were examined as P.W.1 to P.W.7 and 8 documents were marked as Exs.P.1 to Ex.P.8 and material object was marked.



4. When the above incriminating materials were put to the accused under Section 313 (1) Cr.P.C he denied the same as false. However, he did not choose to examine any witness or mark any documents on his side.

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5. The learned Judicial Magistrate No.II, Poonamallee has taken the case on file in C.C.No.44 of 2009 and after perusing the materials available on record and after hearing the arguments advanced by the learned counsel for both sides, convicted and sentenced the accused by the judgment dated 01.02.2013 as stated supra. Aggrieved by the same, the accused filed an appeal in Criminal Appeal No.12 of 2013. The II Additional District and Sessions Judge, Thiruvallur at Poonamallee. After hearing both sides, modified conviction and sentence awarded by the trial Court by judgment dated 11.11.2013. Aggrieved by the judgment dated 11.11.2013, the petitioner has filed the present Criminal revision case before this Court.

6. The learned counsel for the petitioner submitted that the petitioner, instead of taking the lorry at front, erroneously reversed the lorry at back and hit the wall and thereby, there was electrical misfiring and from the evidence of P.W.1 it is seen that the deceased while getting down from the vehicle, touched the handle of the lorry, due to which, he was electrocuted and fell down on the floor. Hence, the petitioner is not responsible for the death of the deceased and the said incident is the act of God.

7. The learned counsel for the petitioner further submitted that the Courts below failed to see the newspaper, wherein, it was published that one Joseph drove the lorry, which involved in the accident on the alleged date of occurrence. The prosecution has not proved the fact that the petitioner has driven the lorry in a rash and negligent manner and resulted in the accident. Hence, the conviction imposed on the petitioner under Section 304(A) IPC is unsustainable. Hence, he prayed this Court to set aside the judgments passed by both the Courts below and extend the benefit of doubt in favour of the petitioner.

8. The learned Government Advocate (Crl.Side) appearing for the respondent/police submitted that the petitioner taken the mini lorry back side in a rash and negligent as well as in careless manner. The petitioner instead of taking the vehicle in front side, taken the lorry at back side carelessly and hit the electric box. Therefore, electric current was passed in the lorry. The deceased, while getting down from the lorry by touching the handle, was electrocuted and fell down on the floor and died. Hence, the petitioner only is responsible for causing the accident and the death of the deceased. Both the



Courts below, after considering the facts and circumstances of the case, rightly convicted the petitioner. Therefore, there is no reason to interfere with the orders passed by the trial Court as well as the first appellate Court.

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9. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials available on record carefully.

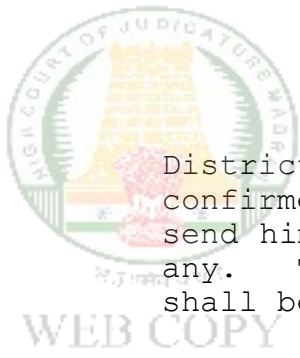
10. On a perusal of records and the witnesses, it is seen from the evidence of P.W.1 that the petitioner instead of taking the lorry at front, has taken the lorry carelessly at back side and hit electric box, which was fixed in the wall of the Company. The deceased while getting down from the lorry by touching the handle, he was electrocuted and died. Ex.P.7 clearly shows that the driver instead of taking the lorry at front, carelessly taken the lorry at back and caused the accident.

11. If at all the petitioner took the lorry at front, the accident would not have happened. If the petitioner drove the lorry slowly and carefully, the lorry would not have hit the electric box and the accident would not have happened. The defence taken by the petitioner has not been considered.

12. In such circumstances, the trial Court, after considering the entire evidence, has rightly convicted the accused and sentenced him as stated above and the same was rightly modified by the first appellate Court and I find no illegality or infirmity or perversity in the judgment of the trial Court and there is no reason to interfere with the order passed by the appellate Court below.

13. Since the lower appellate Court is a fact finding Court, which recorded the reasons for its finding as to whether the petitioner has committed offence under Section 304(A) IPC while exercising revisional power, this Court cannot sit in the armchair of the appellate Court and re-appreciate the evidence let in by the parties.

In the result, the Criminal revision petition fails and the same is dismissed. The judgments passed by the Courts below are confirmed. The conviction and sentence imposed on the appellant under the judgment dated 11.11.2013 passed in Crl.A.No.12 of 2013 on the file of the learned II Additional



District and Sessions Judge, Thiruvallur at Poonamallee, is confirmed. The trial Court is directed to secure the accused and send him to jail for serving the remaining period of sentence if any. The sentence already undergone, if any, by the accused shall be set off under Section 428 Cr.P.C.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The II Additional District and Sessions Judge,  
Thiruvallur at Poonamallee.
2. The Judicial Magistrate No.II,  
Poonamallee.
3. - do - through The Chief Judicial Magistrate,  
Tiruvallur.
4. The Public Prosecutor,  
High Court, Madras.
5. The Inspector of Police (L & O),  
T-12, Poonamallee Police Station,  
Thiruvallur.

+1 cc to Mr.K.Kannan, Advocate, S.R.No.75843

Cr1.R.C.No.1555 of 2013

(CO)  
SSM(29/08/2019)