

BAIL SLIP

The Petitioner / Accused namely Karuppusamy, S/o.Subramani, was directed to be released on bail as per order of this Honourable Court dated 01.08.2013 in CrI.M.P.No.1 of 2013 in CrI.R.C.No.977 of 2013 on the file of this Honourable High Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.11.2018

PRONOUNCED ON : 22.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

CrI.R.C.No.977 of 2013

Karuppusamy ... Petitioner / Accused

Vs.

State rep. by
Inspector of Police
Komaralingam Police Station
Tiruppur District
(Crime No.124/2010)

... Respondent / Complainant

Prayer:- Petition filed under Section 397 r/w 401 Cr.P.C. to set aside the order made in C.A.No.7 of 2013 dated 26.07.2013 on the file of Principal Sessions Judge, Tiruppur confirming the judgment made in S.T.C.No.5816 of 2010 dated 22.01.2013 on the file of Judicial Magistrate No.I, Udumalpet.

For Petitioner : Mr.M.N.Balakrishnan
For Respondent : Mr.G.Ramar
Government Advocate

O R D E R

This petition has been filed to set aside the judgment dated 26.07.2013 in C.A.No.7 of 2013 on the file of Principal Sessions Court, Tiruppur, confirming the judgment dated 22.01.2013 in S.T.C.No.5816 of 2010 on the file of the Judicial Magistrate No.I Court, Udumalpet.

2. On 21.02.2010, around 7.45 p.m., a motor accident took place in Uralpatti, in connection with which, on the complaint lodged by Ramakrishnan, the respondent police have registered a case in Cr.No.124 of 2010 and after completing the investigation, filed final report before the Judicial Magistrate No.I, Udumalpet, which was taken on file as STC No.5816 of 2010 and process was issued to the accused. On the appearance of the accused, charges for the offences under Sections 279 and 338 (2 counts) IPC were framed against him. When questioned, he pleaded 'not guilty'.

3. To prove the case, the prosecution examined 10 witnesses and marked 8 documents. The accused was questioned under Section 313 Cr.P.C. about the incriminating circumstances appearing against him and he denied the same. On the side of the accused, no witness was examined nor was any document marked. Amongst the witnesses examined by the prosecution, two were doctors, viz., Dr.Roy Wilson Amsraj [P.W.8] and Dr.Madhu Periyasami [P.W.9] who had given treatment to the two victims immediately after the incident. The police arrested the accused on 23.02.2010 and he was released on bail on the same day.

4. After considering the evidence on record and hearing either side, the trial Court, by judgment dated 22.01.2013, convicted the accused for the said offences and sentenced him to undergo three months Rigorous Imprisonment for the offence under Section 279-A IPC and three months Rigorous Imprisonment for each count for the offence under Section 338 IPC. The sentences were directed to run concurrently.

5. Challenging the conviction and sentence, the accused filed CrI.A.No.7 of 2013, which was heard by the Principal Sessions Judge, Tiruppur, who has dismissed the same on 26.07.2013, challenging which, the accused has filed the present revision petition.

6. Heard the learned counsel for the accused and the learned Government Advocate (CrI.Side) appearing for the respondent - State.

7. The learned counsel for the accused submitted that there is absolutely no evidence to show that the accused had driven the offending tractor in a rash and negligent manner resulting in the injuries to Madhuramakrishnan [P.W.1] and Kalimuthu [P.W.2]. He further contended that Madhuramakrishnan [P.W.1] being a volunteer in the police force, he has sustained injuries somewhere and has filed a bogus motor complaint. He further

contended that from the nature of the injuries suffered by Madhuramakrishnan [P.W.1], it cannot be stated that he was hit by the trailer driven by the accused. He further contended that the FIR in this case was registered very late and that there is a delay which is fatal to the prosecution case.

8. Per contra, the learned Government Advocate (Crl.Side) refuted the contentions.

9. This Court gave its anxious consideration to the rival submissions.

10. It is a trite law that while exercising powers under Section 397 Cr.P.C., the revisional Court cannot completely re-appreciate the evidence unless it is shown that both the Courts below have erred grossly in appreciating the same. However, this Court perused the evidence adduced by the prosecution.

[a] Madhuramakrishnan [P.W.1], in his evidence, has stated that he is a P.E.T.Master in Srinivasa School and that he also serves as Traffic Warden during peak hours to regulate traffic; on 21.02.2010, he, along with his friend Kalimuthu [P.W.2], had gone to attend the marriage of their friend in his bike TN-41-V-2637; he was driving the motor cycle and near Kommum Road, a tractor came on the other side of the road and when it swerved to the right, the rod in the tractor hit against his knees resulting in his leg getting split and both being thrown on the ground with their two wheeler; the tractor went about 15 feet away and stopped; on seeing this, the local people gathered and the driver of the tractor ran away; the locals called 108 ambulance and sent both of them to the Government Hospital, Udumalpet for first aid and from there, Madhuramakrishnan [P.W.1] was taken to Ganga Hospital in Coimbatore, where the doctors declared that his right leg cannot be rejoined; the next day, the police came to the hospital and recorded his statement; he has also given the number of the tractor, viz., TN-41-2905, both in his evidence as well in the complaint, which formed the basis for registration of the FIR. In the cross-examination, he was questioned about the route which he had taken to reach Udumalpet, for which, he has given necessary answers. When he was asked as to whether there was a trailer in the tractor, he stated in the affirmative, however, stated that he did not know what were the goods found inside the trailer. In fact, in the cross-examination, he has stated that since the tractor had come over the road, the hind portion hit them. He also admitted in the cross-examination that his vehicle was not covered by insurance. Ultimately, it was suggested to him that since he being a Traffic Warden, he has managed to lodge a false complaint against the accused and that the alleged vehicle was not involved in the offence.

[b] Similar is the evidence of Kalimuthu [P.W.2] who was a pillion rider and he also sustained injuries and was taken to the Government Hospital by ambulance, where he underwent treatment. In his cross-examination, it has been suggested that Madhuramakrishnan [P.W.1] had driven the two wheeler very rashly and on account of that, the accident had taken place. Since the vehicle of Madhuramakrishnan [P.W.1] was not covered by insurance, a false complaint has been filed against the accused for compensation, which suggestion to Kalimuthu [P.W.2] was denied.

11. The motor vehicle Inspector who checked the two vehicles was examined as P.W.7. The Motor Vehicle Inspector has clearly stated that the accident had not taken place on account of any mechanical failure in the two vehicles. From the evidence of the two doctors, it is apparent that Madhuramakrishnan [P.W.1] lost his leg and he had to be fitted with Jaipur foot and therefore, the injuries suffered by him are grievous in nature.

12. This Court is unable to countenance the submission of the learned counsel of the accused that a false case has been foisted on the accused for the sake of compensation. The fact remains that after the accident, the tractor was found abandoned in the road and based on that, the identity of the accused has been fixed. This has not been denied by the accused.

13. Under such circumstances, this Court does not find any infirmity in the judgments of the Courts below warranting interference and accordingly, they are confirmed. In the opinion of this Court, the sentence of three months imprisonment for having caused such grievous injuries to Madhuramakrishnan [P.W.1] and Kalimuthu [P.W.2] cannot be said to be excessive warranting reduction.

In the result, this criminal revision case is dismissed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

gms

To

- 1 The Inspector of Police
Komaralingam Police Station
Tiruppur District
- 2 The Principal Sessions Judge,
Tiruppur
- 3 The Judicial Magistrate No.I,
Udumalpet.
- 4 The Public Prosecutor
High Court of Madras
Chennai 600 104
5. The Chief Judicial Magistrate,
Tiruppur.
6. The Superintendent,
Central Prison, Coimbatore.

Cr1.R.C.No.977 of 2013

NMI (CO)
SSM(07/12/2018)