

BAIL SLIP

The Petitioner/Accused viz., Mariyappan S/o. Chinnathambi, was directed to be released on bail as per order of this Court dated 11.02.2013 in M.P.No. 1 of 2013 in Crl.Rc.No. 148 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
Crl.R.C.No.148 of 2013

Mariyappan

...Petitioner/Accused

Vs.

The State Rep. The Inspector of Police,
Krishnagiri Town Police Station,
Krishnagiri District.

...Respondent/Complainant

(Crime No.1030/2006)

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against judgment of conviction passed by the learned Principal Sessions Judge, Krishnagiri, Krishnagiri District in Crl.A.No.30 of 2012 by judgment dated 27.09.2012 confirming the judgment and sentence passed by the learned Judicial Magistrate I, Krishnagiri, Krishnagiri District in C.C.No.374 of 2006 dated 17.02.20102.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.R.Ravichandran

Government Advocate (Crl.Side)

ORDER

This criminal revision has been filed against judgment of conviction passed by the learned Principal Sessions Judge, Krishnagiri, Krishnagiri District in Crl.A.No.30 of 2012 by judgment dated 27.09.2012 confirming the judgment and sentence passed by the learned Judicial Magistrate I, Krishnagiri, Krishnagiri District in C.C.No.374 of 2006 dated 17.02.20102.

2 Case of the prosecution is that on 03.07.2006, while deceased Manikandan was proceeding from Thiruvannamalai junction to Krishnagiri National Highways, a tempo bearing Reg.No.TN 54 Z 4435, coming from opposite direction with rash and negligent manner, had dashed against the deceased and caused accident, which resulted in death of Manikandan. P.W.1, who was a pillion

rider, gave a complaint and P.W.13/Inspector of Police, Krishnagiri Town Police Station, registered a case in Crime.No.1030 of 2008. After investigation, P.W.13, had filed a final report against the petitioner/accused under Sections 279, 337 and 304 (A) IPC, before the learned Judicial Magistrate I, Krishnagiri, which was taken on file in C.C.No.374 of 2006.

3 Before the trial Court, in order to prove the case of the prosecution, P.W.1 to P.W.14 were examined and Ex.P1 to P14 were marked and no material object was produced by the Prosecution. On the side of the accused, no witness was examined and no document was marked.

4 The learned Magistrate, after elaborate trial, found the accused guilty of offences punishable under Sections 279, 337 and 304 (A) IPC and convicted him and sentenced to undergo six months simple imprisonment with fine of Rs.5,000/-, in default, to undergo one month simple imprisonment, for the offences under Sections 279 and 304 (A) and imposed fine of Rs.500/- for the offence under Section 337 IPC, in default, to undergo simple imprisonment for a period of one week, by judgment dated 17.02.2012. Aggrieved against the same, the accused had preferred an appeal before the learned Principal Sessions Judge, Krishnagiri, in C.A.No.30 of 2012. The lower appellate Court, after hearing both the parties, by judgment dated 27.09.2012, dismissed the appeal and confirmed the conviction and sentence imposed by the learned Magistrate.

5 Assailing the order of conviction made by the learned Magistrate, which has been confirmed by the lower appellate Court by judgment dated 27.09.2012, the convict has preferred this present criminal revision before this Court.

6 The learned counsel for the petitioner/accused would submit that the deceased had not any valid license on the date of accident and the accident had occurred only due to negligence of the deceased. Both the Courts below had failed to consider the above fact and erroneously convicted the petitioner, which warrants interference of this Court.

7 The learned Government Advocate (CrI.Side) appearing for the respondent would submit that P.W.1, who was a pillion rider and eye witness to the occurrence, had clearly spoken about the accident and stated that the accused only drove the vehicle in a rash and negligent manner and caused accident. P.W.2 and P.W.3 have also spoken about the accident. P.W.8, Doctor, who gave treatment to the deceased had stated about the injuries sustained by the deceased and postmortem report Ex.P.5 also reveals that the death had occurred only due to the injuries sustained by the deceased. Hence both the Courts below

had rightly convicted the accused.

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

9 P.W.1, who was a pillion rider and eye witness to the occurrence, had clearly spoken about the accident and stated that the accused only drove the vehicle in a rash and negligent manner and caused accident. P.W.11, the lecturer of St. John Hospital, Bangalore, who conducted postmortem, had opined that the death was due to Coma as resulted of head injury and gave a postmortem report Ex.P.5. Admittedly, at the time of occurrence, the deceased had no valid license. Evidences of prosecution side witnesses had clearly shows that the death has occurred only due to the accident and the accused only drove the vehicle in rash and negligent manner. The lower appellate Court, being a fact finding Court, had re-appreciated entire evidences and confirmed the conviction and sentence passed by the learned Magistrate. This Court, in revision, need not re-appreciate entire evidence, it can only see whether there is any perversity in the order of the Court below.

10 This Court does not find any perversity in the judgment of conviction passed by the learned Magistrate and confirmed by the lower appellate Court in judgment dated 27.09.2012 made in C.A.No.30 of 2012. However, since the deceased had no valid license on the date of accident, he was also one of the reasons for the accident, this Court is inclined to reduce the period of imprisonment from six months to three months.

11 In the result, the revision is partly allowed. Conviction imposed by the Courts below is confirmed and period of imprisonment alone is modified from six months to three months. The trial Court is directed to secure the accused to undergo remaining period of imprisonment, if any.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate I,
Krishnagiri, Krishnagiri District.
2. The Principal Sessions Judge,
Krishnagiri, Krishnagiri District.
3. The Public Prosecutor,
High Court of Madras.
4. The Inspector of Police,
Krishnagiri Town Police Statio,
Krishnagiri District.
5. The chief Judicial Magistrate,
Krishnagiri.
6. The Superintendent of Police,
Krishnagiri District.
7. The Section Officer,
Criminal Section,
High Court, Madras.

Cr1.R.C.No.148 of 2013

PA(CO)
GN(23/03/2019)



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