

BAIL SLIP

The Petitioner/Accused namely Dhanapal, aged 36 years, S/o.Govindaraj was released on bail as per order of this Court dated 24.03.2013 in CRL MP No.1/2013 in CRL RC 278/2013 by this Honourable Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.278 of 2013

Dhanapal

... Petitioner/Accused

Vs.

The State by
Inspector of Police
Erode Taluk Police Station
Erode.
(Crime No.10 of 2006)

... Respondent/Complainant

PRAYER : Criminal Revision Case filed under Section 397 and 401 Cr.P.C. Against the Judgment dated 07.12.2012 passed in C.A.No.154 of 2012 on the file of Principal Sessions Judge, Erode and confirming the conviction and sentence passed by the Learned Judicial Magistrate No.I, Erode in C.C.No.250 of 2006 dated 23.07.2012.

For Petitioner : Mr.A.K.Kumaraswamy
Senior Counsel
for Mr.S.Kaithamalai Kumaran

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)

ORDER

It is the case of the prosecution, that the deceased was proceeding in his TVS 50 Moped on Coimbatore - Erode road, from east to west. P.W.1 and his uncle also proceeding in another TVS 50 following the deceased. When they were nearing Mani Rice

Mill, Mettukadai, the bus bearing registration No.TN 33 AV 0707, while overtaking the lorry dashed against the moped in which the deceased was traveling. The deceased was thrown away as a result he sustained injuries. Immediately, he was taken to hospital where he succumbed to injuries. Therefore, P.W.1 gave complaint before the respondent police.

2. After completion of investigation, the respondent police laid the charge sheet, under Sections 279 and 304(A) IPC against the accused and the same was taken on the file of learned Judicial Magistrate No.I, Erode in C.C.No.250 of 2006.

3. The learned Judicial Magistrate on the basis of the available evidence and materials, found the accused guilty under Section 279 IPC and sentenced to undergo Simple Imprisonment for one month and to pay fine of Rs.500/- in default Simple Imprisonment for two weeks and also convicted the accused under Section 304 (A) IPC and sentenced to undergo Simple Imprisonment for one year and to pay fine of Rs.5,000/- in default Simple Imprisonment for one month, in C.C.No.250 of 2006 dated 23.07.2012.

4. Aggrieved over the same, the accused has preferred the Criminal Appeal in C.A.No.154 of 2012 on the file of Principal Sessions Judge, Erode. After hearing the arguments, advanced by both sides, the learned Principal Sessions Judge, Erode, confirmed the order of Judicial Magistrate No.I, Erode in C.C.No.250 of 2006 dated 23.07.2012.

5. The present Criminal Revision Case has been preferred by the accused, against the order of the learned Principal Sessions Judge, Erode in C.A.No.154 of 2012 dated 07.12.2012.

6. The learned counsel for the petitioner would submit that the petitioner is ready to pay compensation and he seeks to modify the sentence by way of compensation.

7. The learned Government Advocate (Criminal Side) would submit that the accident is admitted, and it has happened due to rash and negligent driving of the petitioner. Moreover, both the Courts below have rightly appreciated the matter and convicted the petitioner.

8. Heard both sides and perused the materials available on record.

9. While exercising the power of revisional jurisdiction, this Court cannot sit as an Appellate Court and re-appreciate the entire evidences. While exercising revisional jurisdiction this Court has to find out, whether any perversity in the Judgment passed by the Courts below. Moreover, entire records,

show that the prosecution was able to prove the case as projected and there is no perversity in the Judgment and conviction passed by both the Courts below. However, sentence is concerned, one year Simple Imprisonment is modified, instead of one year, the petitioner has to undergo Simple Imprisonment for the period of three months is ordered. Since the accident is not intentional, three months Simple Imprisonment will meet the ends of justice.

10. With the above modification, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge, Erode.

2. The Judicial Magistrate No.I, Erode.

3. Inspector of Police
Erode Taluk Police Station
Erode.

4. The Public Prosecutor
Madras High Court.

+1 cc to M/s.S.Kaithamalai Kumaran, Advocate Sr.No.64423

Crl.RC.No.278 of 2013

SJ(CO)
CSL/13.11.2018

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