



Bail Slip

The Petitioner in CrI.R.C.No.675 of 2013 viz Kanagaraj aged 25 years S/o. Pillaiyar was directed to be released on bail as per the order of this Court dated 04.06.2013 and made in M.P.1/2013 in CrI.R.C.No.675 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.675 of 2013

and

M.P.No.1 of 2013

Kanagaraj

...Petitioner

Vs.

The State,
Rep. By Sub-Inspector of Police,
Magaral Police Station,
Kanchipuram District.
(Crime No.150/2008)

... Respondent

Prayer: The Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to set aside the judgment dated 28.03.2013 made in CrI.A.No.19 of 2012, on the file of the learned Sessions Judge, District Sessions Court II, Kanchipuram, confirming the judgment dated 25.04.2012 made in C.C.No.262 of 2008, on the file of the learned Judicial Magistrate-II, Kanchipuram.

For Petitioner : Mr.D. Ravichander

For Respondent : Mr.R.Ravichandran

Govt. Advocate (CrI side)

O R D E R

This Criminal Revision has been filed to set aside the judgment dated 28.03.2013 in CrI.A.No.19 of 2012, on the file of the learned Sessions Court-II, Kanchipuram, confirming the judgment dated 25.04.2012 in C.C.No.262 of 2008, on the file of the learned Judicial Magistrate-II, Kanchipuram.

2. The case of the prosecution is that on 12.04.2008 at about 4.30 A.M., the petitioner drove a lorry bearing Registration No. TN 01 J 0754 laden with sugarcane with high



speed in rash and negligent manner. While he was going in Walajahbad, he lost his control and the vehicle ran over one gopi who was sitting on the side of the road. The said Gopi died on the spot when the lorry ran over his head. Based on the complaint, the respondent police conducted investigation and filed the charge sheet against the petitioner under section 279, 304(A) of IPC before the learned Judicial Magistrate, Kanchipuram. The learned Magistrate taken a case on file in C.C.No.262/2008. The prosecution, in order to prove the case, before the trial Court, has examined as many as 9 witnesses P.W.1 to P.W.9, marked Ex.P.1 to Ex.P.9. The petitioner has not chosen to examine anyone on his side and has not marked any document. The trial Court after full fledged trial, convicted the petitioner for offence under Sections 279 and 304(A) of IPC and Section 3 read with 181 M.V. Act and 134(A)(B) read with 187 M.V. Act 1988 and sentenced him to undergo six months simple imprisonment and to pay a sum of Rs.500/- in default, to undergo simple imprisonment for one month for alleged offence under Section 279 IPC and sentenced him to undergo six month simple imprisonment and to pay a fine of Rs.5000/-, in default, to undergo simple imprisonment for three months for alleged offence under Section 304(A) and the petitioner shall pay a fine of Rs.500/-, in default, to undergo 15 days simple imprisonment for offence under Section 3 read with 181 M.V.Act and to pay a fine of Rs.500/-, in default, 15 days simple imprisonment for offence under Section 134(A)(B) read with 187 M.V.Act 1988.

3. Challenging the said conviction and sentence of the learned Judicial Magistrate-II, Kanchipuram, dated 25.04.2012, the petitioner preferred the appeal before the learned District and Sessions Judge-II, Kanchipuram in C.A.No.19 of 2012. After giving an opportunity to both sides, the learned Sessions Judge dismissed the appeal and confirmed the judgment of conviction and sentence passed by the trial Court. As against the same present revision has been filed before this Court.

4. The learned counsel for the petitioner would submit that accident was not caused due to negligent driving of the petitioner. It was actually due to mechanical defect. The learned counsel also pointed out that there was a contradiction in evidence of P.W.1 and P.W.5. P.W.5 is not an eye witness to the incident. The Courts below have not appreciated this fact and failed to see the contradiction. Therefore, the learned counsel would submit that benefit of the doubt could be given to the petitioner and the revision may be allowed.



5. The learned Government Advocate (Crl.Side) on the other hand argued that the petitioner does not have possession of valid driving license. The very fact that he has driven the vehicle without valid driving license itself is a crime. The evidence of P.W.1, father of the victim is clear, cogent and convincing. He has spoken in clear terms that he and his son were sitting inside the field, after watering the crops. The petitioner lost his control of the vehicle and hit against the deceased and died on the spot.

6. Heard the learned counsel appearing for petitioner and the learned Government Advocate (Crl.Side) appearing for respondent police and perused the materials placed before this Court.

7. It is the case of the prosecution that the petitioner has driven the lorry in rash and negligent manner and he lost his control of the vehicle and hit against the person who was sitting on the side of the field. P.W.1, father of the victim has spoken about the incident. According to him, he and his son came to the field early in the morning and they were watering the crops. After finishing their work, they came to the side of the field abutting the road. P.W.1 was standing and his son, the victim sitting on the field. On seeing the lorry rushed towards them, P.W.1 immediately ran away. However, the victim was unfortunate and he had no time to react so quickly. Therefore, he was crushed to death. The evidence of P.W.1, has pointed out by the learned Government Advocate is clear, cogent and convincing. There is absolutely no need to doubt the veracity of the evidence of P.W.1. P.W.5 was not an eyewitness. When the medical evidence not tallied with the eye witness, the evidence of eyewitness prevail over the medical evidence. Moreover, it is seen that from the record, the petitioner was not in a possession of valid driving license. The act to driving the heavy vehicle like lorry without any valid license itself is a crime. The trial Court has appreciated the entire evidence in a proper perspective and rightly convicted and sentenced the petitioner. The lower Appellate Court has rightly appreciated the oral and documentary evidence on record, dismissed the appeal. This Court while exercising the revisional jurisdiction need not reassess the evidence. This Court does not find any perversity or illegality in the judgments of the Courts below. Hence, the conviction imposed on the petitioner by the Courts below are confirmed. As regards the sentence, the learned counsel for the petitioner would plead to show some leniency on the petitioner regarding the sentence. The learned counsel pointed out that he has not married and he is living peaceful life and not indulge any activities detrimental to the peace of the society. Under these circumstances, the petitioner is sent



to jail, his family would suffer. I have consider the submission of the learned counsel for the petitioner.

8. Considering the nature of the offence and his age, this Court is of the view that the sentence is reduced from six months to three months simple imprisonment for offence under Section 304(a) IPC. In all other aspects, the judgment of the appellate Court is confirmed. The Criminal Revision Case is dismissed with the above modification. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

rli

To

1. The District Sessions Judge
Kanchipuram.

2. The Judicial Magistrate-II,
Kanchipuram.

3. Do Thro The Chief Judicial Magistrate, Chengalpattu

4. The Sub Inspector of Police, Magaral Police Station
Kanchipuram District

5. The Public Prosecutor,
High Court of Madras.

Copy to

The Section officer
Criminal Section
High Court, Madras 104.

+1 CC to Mr.D. Ravichander, Advocate sr 63908.

Cr1.R.C.No.675 of 2013
and
M.P.No.1 of 2013

VD(CO)
SP(14/08/2019)