

Bail Slip

The Petitioner/Accused viz., Subramanichetty, S/o.Veeraragavulu (in C.C.No.506/2005, dated 14/08/2007 on the file of the Judicial Magistrate-I, Krishnagiri) was directed to be released on bail as per order of this Court, dated 01/03/2012 made in CrI.MP.No. 1 of 2012 in CrI.R.C.No.266 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 14.02.2019

Coram:
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Revision Case No.266 of 2012

Subramanichetty,
S/o.Veeraragavulu,
Bommeapalli Village,
Develam Post, Ethir Kuppam,
Chittoor District. ... Petitioner/Accused

/versus/

State by,
Inspector of Police,
Maharajakadai Police Station,
Krishnagiri District.
(Crime No.198/2005) ...Respondent/Complainant

Prayer:- Criminal Revision Case is filed under Section 397 and 401 of Criminal Procedure Code, against his conviction and judgment in C.A.No.100 of 2007 on the file of the Additional Session Judge, Krishnagiri, dated 22.11.2011, convicted and sentenced him to pay a fine of Rs.500/- and sentenced him to undergo R.I for 3 months for the offences under Section 279 I.P.C and sentenced him to pay fine of Rs.2,000/- and one year R.I for the offence under Section 304(A) of I.P.C, confirming the conviction and judgment passed in C.C.No.506 of 2005, dated 14.08.2007, on the file of the Judicial Magistrate, Krishnagiri.

For Petitioner : Mr.K.Thiruvengadam

For Respondent : Mr.T.Shanmuga Rajeswaran
Additional Public Prosecutor

O R D E R

This Revision is directed against the concurrent finding of the Courts below sentencing the revision petitioner for offence under Section 279, 304(A) of I.P.C.

2. The case of the prosecution is that on 01.06.2005 at about 03.00pm, the Revision Petitioner driving the Andhra Pradesh Corporation Bus bearing Registration No. A.P.11.Z.4171 in rash and negligent manner dashed against one Chennappan and caused his death near Chinnepalli, Krishnagiri. According to PW.1, when he along with the deceased were proceeding towards Krishnagiri on the Krishnagiri to Kuppam National Highway, the Andhra Pradesh Transport Corporation Bus bearing Registration No.A.P.11.Z.4171 driven by the petitioner herein came at high speed rash and negligently dashed the two wheeler. The rider of the two wheeler chenappan was thrown out from his vehicle, he sustained multiple injuries over his body. He was taken to the hospital however, he was declared brought dead at the hospital. The said occurrence was also witnessed by PW.2 who has deposed that after hitting the two wheeler, the offending bus dragged the deceased to some distances and vehicle was stopped subsequently.

3. To prove the case, the prosecution has examined 15 witnesses, 10 Exhibits were marked. The ocular witnesses of PW.1, PW.2 and PW.3, Post-mortem Certificates Ex.P.8 and Ex.P.9 and the Motor Vehicle Inspector report (Ex.P.5) were taken into consideration and the trial Court has found the accused guilty. Sentenced him to undergo one year S.I for offence under Section 304-A of I.P.C and fine of Rs.2,000/- in default three months S.I and sentenced him to undergo three months S.I and fine of Rs.500/- for offence under Section 297 of I.P.C.

4. Aggrieved by the sentence and conviction, the revision petitioner has preferred an Appeal before the Additional Session Judge, Krishnagiri, however, he could not succeed. The present revision is filed on the ground that PW.1 and PW.2 who are the ocular witnesses to the incident are closely related to the deceased therefore, they are interested witnesses. The Court below ought not to have relied upon their evidence. The other point canvassed by the learned counsel for the revision petitioner is that, as per the post-mortem report Ex.P.9, the post-mortem was conducted between 5.00p.m to 6.00p.m. The Doctor has opined that a person died six hours before conducting post-mortem, if that is to be taken in account, the probable time of death should be before 12 noon. Whereas, PW.1 and PW.2 has deposed that the accident took place at around 3.00pm. So they could not have witnessed the accident.

5. The learned Public Prosecutor would submit that the deposition of PW.1 and PW.2 though they are relatives to the deceased, their presence in the spot at the time of occurrence and the reasons for their presence is spoken by them. The evidence is fully corroborated by the other attended circumstances. It is PW.1 along with the son of the deceased has taken the victim to the hospital. The hospital record also

indicates that PW.1 was the attender to the victim. The probable time to death mentioned in the post-mortem is only an opinion evidence and it is not a conclusive proof. Any discrepancy in the probable time of death will not make the case of the prosecution false and the evidence of ocular witness cannot be thrown out giving way to the opinion evidence of an expert. This Court on consideration of the evidence does not see any error in the finding of the Courts below. This Court finds that the prosecution has clearly proved the rash and negligent on the part of the petitioner herein, which has caused the death of Chennappan. The eye witnesses have deposed incrementing the revision petitioner.

6. As far as the sentence is concerned, the learned counsel would submit that the petitioner employed in the Andhra Pradesh Transport Corporation will be gravely affected if he is imprisoned. The death in the course of motor accident cannot be treated leniently. The Hon'ble Supreme Court has time and again come down heavily on imposing flea-bite sentence for offence under Section 304(A) of I.P.C. In this case, the Courts below has passed one year R.I and a fine of Rs.2,000/- for offence under Section 304-A of I.P.C and three months R.I and a fine of Rs.500/- for the offence under Section 297 of I.P.C.

7. Considering the age of the revision petitioner and the long pendency of this case for more than a decade, this Court reduce the period of sentence to six months Rigorous Imprisonment instead of one year Rigorous Imprisonment for the offence under Section 304-A of I.P.C. The remaining portion of sentence shall stands confirmed. Accordingly, the Criminal Revision Case is Partly Allowed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bsm

To

- 1.The Additional Session Judge,
Krishnagiri.
- 2.The Judicial Magistrate No.I,
Krishnagiri.
- 3.The Inspector of Police,
Maharajakadai Police Station,
Krishnagiri District.

4.The Section Officer,
Criminal Section,
High Court, Madras.

5.The Chief Judicial Magistrate,
Krishnakiri.

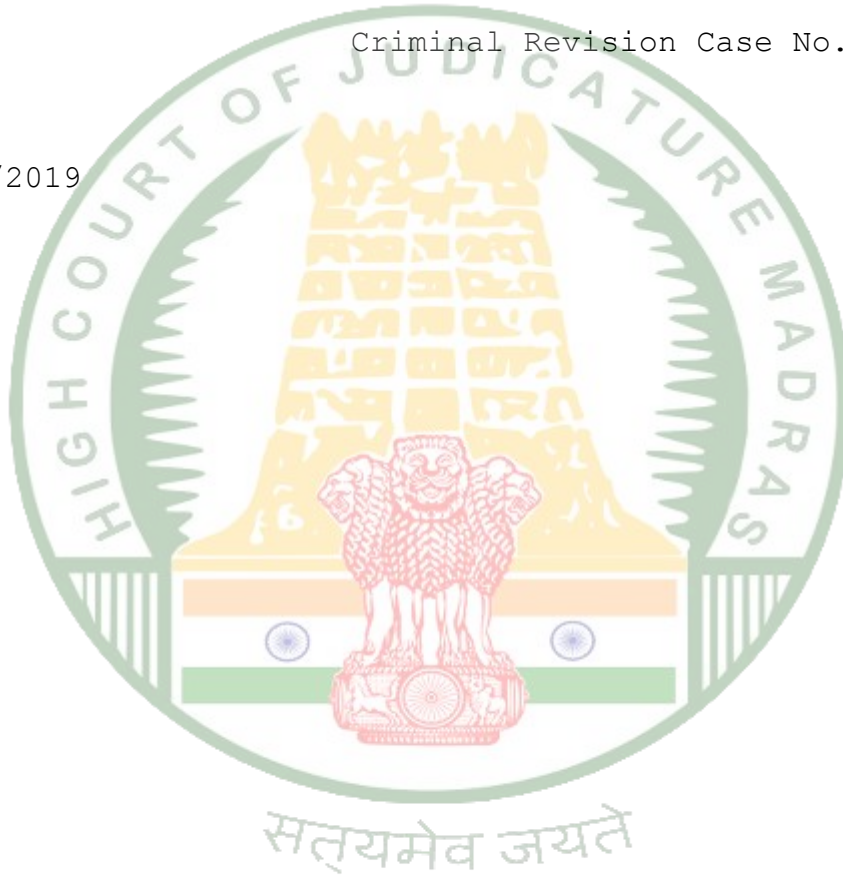
6.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.K.Thiruvengadam, Advocate, S.R.No. 13653

Criminal Revision Case No.266 of 2012

GP(CO)

rrs 19/03/2019



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