

BAIL SLIP

The Petitioner / Accused namely Senthil Kumar, S/o.Kaliya Perumal, aged 30 years was ordered to be released on bail as per order of this Honourable Court dated 15.06.2012 made in M.P.No.1 of 2012 in CrI.R.C.No.458 of 2012 on the file of this Honourable Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 28.02.2019

Pronounced on: 06.03.2019

Coram:

The Honourable Dr.Justice G.Jayachandran

Criminal Revision Case No.458 of 2012

Senthil Kumar,
S/o.Kaliya Perumal,
Boodhambur,
Kurinjipadi,
Cuddalore District.

... Appellant/Accused

/versus/

State represented by:
Inspector of Police,
Vadalur Police Station,
Cuddalore District.
(Cr.No.83/2006)

... Respondent/Complainant

Prayer: Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C against the judgment passed by the Learned Principal Sessions Judge, Cuddalore in C.A.No.136 of 2010, dated 03.02.2012 confirming the judgment passed by the learned Judicial Magistrate No.3, Cuddalore in C.C.No.108 of 2006 dated 01.12.2010.

For Petitioner : Mr.R.Rajan

For Respondent : Mr.T.Shanmuga Rajeswaran
Government Advocate

J U D G M E N T

The Criminal Revision Petition is against the concurrent finding of the Courts below holding the petitioner guilty of offences under Sections 279 and 304 (A) of I.P.C.

2. The petitioner on 29.04.2006 was driving the bus bearing registration No.TN.31.M.8989 on Vadalur-Vridhachalam main road. At about 7.35 p.m near Parvathiupuram Village he dashed against the TVS Champ two wheeler bearing registration No.TN.31.V.9438 driven by Kaveri. The said Kaveri died on the spot, her two wheeler got totally damaged.

3. Natarajan (PW.1) father of Kaveri gave a complaint to the respondent police. Investigation revealed that both the vehicles were moving towards west from east. The bus hit the two wheeler and caused the accident. The accident was due to rash and negligent driving of the petitioner.

4. Before the trial Court, the prosecution has examined 11 witnesses. 9 documents marked.

5. The trial Court held the prosecution has proved the guilty of the accused. Evidence of PW.1(father of the deceased) is corroborated by PW.4 and PW.5. These witnesses have deposed that accident caused due to rash and negligent driving of the accused. PW.3 who is the brother of the deceased and PW.3 who is the sisters husband of the deceased have deposed about the shifting of the deceased to the hospital from the spot of accident. The motor vehicle inspector PW.9 has spoken about the damage to the vehicles. He has certified that the accident has not caused due to any mechanical fault. The observation mahazar and the sketch are incriminating the accused. Therefore for the said reasons convicted the accused and sentenced him to undergo 6 months R.I and pay a fine of Rs.2,000/- in default 2 months S.I for the offence under Section 304(A) of I.P.C. Sentenced him to pay a fine of Rs.500/- in default 2 weeks S.I for offence under Section 279 of I.P.C.

6. Aggrieved against the judgment of the trial Court, the accused preferred Criminal Appeal before Sessions Court, Cuddalore in C.A.No.136 of 2010.

7. The Appellate Court, after re-appreciating the evidence found no error in the judgment. Hence confirmed the trial Court judgment.

8. Aggrieved by that the present revision petition is filed.

9. The learned counsel for the revision petitioner submitted that, the Courts below erred in relying upon the evidence of PW.1 who is none other than the father of the victim, who is an interested witness. His presence at the scene of accident is highly improbable. He is not a competent witness to speak about the rash or negligence driving of the accused.

10. PW.1 in his deposition has said he was present at the time of accident opposite to the Veterinary hospital on Vadalur-Vridhachalam road. At about 7.25 p.m the bus driven by the accused rash and negligently hit the TVS Champ driven by his daughter dragged her to some distance. Whereas, PW.2 in his deposition has said, that when he and PW.1 were at his residence in Neyveli, the mother of the deceased called them over phone at 7.45 p.m and informed about the accident. He and PW.1 went to the hospital.

11. Pointing the above contradiction and the delay in registering F.I.R based on the complaint given by PW.1 whose evidence is contradicted by PW.2, the learned counsel submitted that the Courts below have erroneously convicted the revision petitioner without adequate proof for rash and negligent driving. The delay in registering the F.I.R and the delay in forwarding the same to the Court also were pointed out as lapse in the case of the prosecution, casting doubt about its veracity.

12. Heard both sides. Records perused. Weighed the rival submissions.

13. On perusal of the records, this Court finds that apart from PW.1, Ramalingam PW.5 is yet another person who has seen the accident and corroborated PW.1. The Motor vehicle Inspector Mr.Balan examined as PW.9. His report is marked as Ex.P.4. This report reveals that the two wheeler driven by the deceased Kaveri was damaged extensively. The following damages are noted.

- (i). Front head light assembly damaged.
- (ii). Cross bar bend.
- (iii). Chassis bend.
- (iv). Rear wheel rim bend.
- (v). Chains bracket damaged.
- (vi). Silencer damaged.

14. PW.10 Dr.Manivasuki who has conducted the post-mortem has deposed about the injuries found on the body of the deceased. The post-mortem report is marked as Ex.p.9. The post-mortem report Ex.P.9 discloses the fact that the road traffic victim Kaveri has sustained lacerated wounds all over her face, left and right elbow. Multiple fractures on both side ribs and left elbow. Tyre mark over her chest. These injuries and the damage to the two wheeler cannot happen unless the offending vehicle driven rash and hit the two wheeler negligently. Therefore, the finding of the Courts below is legally and factually sustainable. The petitioner has been identified by the witnesses that he was the driver of the offending vehicle, therefore the conviction and sentence passed

the trial Court and rightly confirmed by the Lower Appellate Court does not require any interference.

15. Accordingly, the Criminal Revision Case is dismissed. The judgment of the trial Court is hereby confirmed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

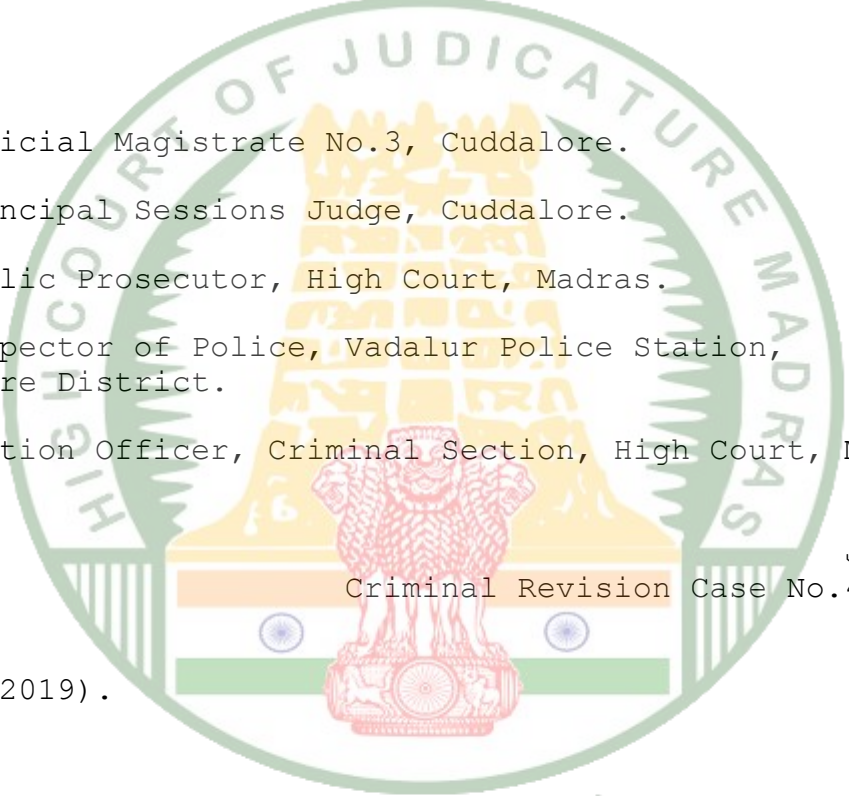
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To

1. The Judicial Magistrate No.3, Cuddalore.
2. The Principal Sessions Judge, Cuddalore.
3. The Public Prosecutor, High Court, Madras.
4. The Inspector of Police, Vadalur Police Station, Cuddalore District.
5. The Section Officer, Criminal Section, High Court, Madras.

Judgment in
Criminal Revision Case No.458 of 2012

NMI (CO)
SSM(03/04/2019) .



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