

Bail Slip

The Appellant/Petitioner accused viz., Sowrirajan, S/o. Murugaiyan was directed to be released on bail as per order of this Court dated 04/06/2012 in M.P.No.1 of 2012 in CrI.R.C.No.491/2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Revision Case No.491 of 2012

Sowrirajan,
S/o.Murugaiyan,
No.8, Pon Nagar Colony,
Nedungadu, Mayiladuthurai Taluk,
Nagapattinam District.

... Petitioner/Accused

/versus/

State by,
Sub-Inspector of Police,
Perambur Police Station,
Nagapattinam District.

... Respondent/Complainant

Prayer:- Criminal Revision Case is filed under Section 397 and 401 of Criminal Procedure Code, against the judgment of the District & Sessions Judge, Nagapattinam in C.A.No.18/2009 dated 19.10.2011, who had convicted the petitioner/accused under Section 304(A) of I.P.C and sentenced to undergo simple imprisonment for three months, modifying the judgment of the Judicial Magistrate No.II, Mayiladuthurai in C.C.No.159/2007, dated 06.04.2009, who had convicted the petitioner/accused under Section 304(A) of I.P.C and sentenced to undergo simple imprisonment for one year and imposed a fine of Rs.5,000/- and in default, to undergo S.I for six months.

For Petitioner : Mr.A.S.Baalaji

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

O R D E R

Heard the counsel for the Revision Petitioner.

2. The brief facts of the prosecution case is as follows:

The petitioner herein was held for his rash and negligent driving of the Tata Sumo causing the death on 04.12.2006 at about 2.30 P.M on the Bazaar street, Thiruvilaiyattam. The accident was witnessed by Anuradha the wife of victim and Pandurengan brother of the victim. While the victim along with PW.1 and PW.3 were walking along with the Bazaar road to purchase grocery, the Tata Sumo driven by the accused had come in high speed from South to North and dashed against the deceased causing grievous injury. The victim was taken to the Government General Hospital, Mayiladuthurai. Thereafter, shifted to Tanjore Medical College Hospital. After treatment for two months at Tanjore Medical College Hospital, the deceased succumbed to injuries. The police after receiving the intimation from the Hospital, gone to the Hospital recorded the statement of Anuradha (PW.1) wife of the victim and proceeded with the investigation. On the death of the victim, the charge has been altered to 304-A of I.P.C.

3. The trial Court after examining 13 witnesses and considering 5 Exhibits has found that the death has caused due to rash and negligent driving of the accused. The place of accident being a highly congested place, the accused has not taken adequate care and was not diligent enough to negotiate the road without causing hindrance to the public.

4. While holding him guilty, the trial Court convicting the accused to undergo one year S.I and a fine of Rs.5,000/- in default six months S.I.

5. Aggrieved by that, the accused has preferred the Criminal Appeal before the District and Sessions Judge, Nagapattinam in C.A.No.18 of 2009.

6. The Learned Appellate Court Judge has re-appreciated the evidence and considering the overwhelming evidence against the accused regarding his rash and negligent driving has upheld the conviction. At the same time, considering the failure of the prosecution to produce the case sheet to know the nature of treatment given to the accident victim, while he was in the hospital, the period of sentence modified from one year S.I to three months S.I.

7. The learned Counsel appearing for the Revision Petitioner would submit that the contradictions between the evidence of PW.1 and PW.3 regarding the direction from which the

offending vehicle was proceeding ought to have been considered by the Courts below and acquitted the accused. While Anuradha (PW.1) has deposed that, the offending vehicle Tata Sumo was coming from South to North whereas Pandurengan (PW.3) has deposed that the offending vehicle was moving from North to South. Pointing this contradictions, the counsel contended that Courts below unfortunately not taken serious note of it.

8. However, the Learned Public Prosecutor would submit that it is a very minor contradiction, when the entire evidence taken in holistic manner. The deposition was recorded after lapse of several months. One of the witness was not able to recollect the exact direction. This will not falsify the ocular evidence of others regarding the occurrence. This Court is in agreement with the above submission made by the Public Prosecutor.

9. In the revision petition, this Court cannot appreciate and re-appreciate the facts, which has been proved and accepted by the Courts below, unless, it is per se illegal and perverse. In this case, this Court finds no error or illegality committed by the Courts below in applying the law. The lower Appellate Court, in fact has considered the date of accident and date of death, has leniently modified the period of sentence. Hence, no need to interfere the finding of the Lower Appellate Court.

10. In the result, the Criminal Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The District & Sessions Judge, Nagapattinam.
2. The Judicial Magistrate No.II, Mayiladuthurai.
3. The Sub-Inspector of Police, Perambur Police Station, Nagapattinam District.
4. The Public Prosecutor, High Court, Madras.

+1cc to Mr.A.S.Baalaji, Advocate, S.R.No.15075

Criminal Revision Case No.491 of 2012

RR(CO)

RRS (02/05/2019)