

Bail Slip

The Petitioner/Accused viz., Ramu S/o.Peria Karuppan, aged about 37 years (CC No.78/2007 daed 09/06/2014 on the file of the Judicial Magistrate No.I, Tiruppur) is released on bail as per the order of this Court dated 18/02/2019 made in CrI.M.P.No.1553 of 2016 in CrI.RC No.228 of 2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.10.2019

PRONOUNCED ON : 15.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.RC.No.228 of 2016

Ramu

Petitioner/Accused

Vs

State by Inspector of Police
Tiruppur North Police Station
Tiruppur (CR No.1536/2006)

Respondent/Complainant

Prayer:- This Criminal Revision Petition is filed, against the judgement of conviction and sentence, dated 7.1.2016, made in CA.No.50 of 2014, by the II Additional District Sessions Court, Tiruppur, confirming the judgement of conviction and sentence, dated 9.6.2014, made in CC.No.78 of 2017, by the Judicial Magistrate I, Tiruppur.

For Petitioner : Mr.M.Manokaran

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

1.This Criminal Revision Petition is filed, against the judgement of conviction and sentence, dated 7.1.2016, made in CA.No.50 of 2014, by the II Additional District Sessions Court, Tiruppur, confirming the judgement of conviction and sentence, dated 9.6.2014, made in CC.No.78 of 2017, by the Judicial Magistrate I, Tiruppur, finding the Petitioner/accused guilty for the offences under Sections 279 and 304A of IPC and convicting and sentencing him for the offence under Section 279 of IPC, to undergo six months Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month Simple Imprisonment and for the offence under Section 304A of IPC to undergo one year Rigorous Imprisonment and to pay a sum of Rs.1,000/-, in default to undergo one month Simple Imprisonment and ordering the

sentences to run concurrently.

2.The facts in a nutshell, leading to filing of this Criminal Revision Case are that on the basis of the complaint given by one S.Ravi, son of the deceased Subramanian, alleging that on 20.11.2006 at 16.30 hours, when the deceased was proceeding in a TVS XL Motorcyle, bearing Reg.No.TN 39 A 3729, on the Tiruppur-Perumanallur Road, in front of a Pavithra Silks Shop, a Mini Bus, bearing Reg.No.TN 59 B 9819, driven by the Petitioner/ accused, in a rash and negligent manner, dashed against the deceased, due to which, the deceased succumbed to grievous injuries in the Hospital, a case was registered by the Respondent Police in Cr.No.1536 of 2006, against the the Petitioner/ accused for the alleged offence under Sections 279 and 337 of IPC, later altered to Sections 279 and 304A of IPC. After completion of the investigation, the Respondent Police had filed a final report in CC.No.78 of 2007 before the Trial Court. In and by the impugned judgement, the Trial Court, based on both the oral and documentary evidence, namely PW.1 to PW.12 and Ex.P1 to Ex.P9, had awarded punishments as referred to above. In the appeal filed as against the judgement of the Trial Court, by the Petitioner/ accused, by the impugned judgement, the lower appellate court had dismissed the appeal, confirming the judgement of conviction and sentence of the Trial Court. As against the same, this Criminal Revision Case has been filed by the Petitioner/ accused.

3.This court heard the learned counsel on either side.

4.The learned counsel for the Petitioner would submit that since the occurrence had taken in a busy area, there would not have been possibility for the Petitioner/ accused to have driven the offending vehicle, mini bus, in a rash and negligent manner, as alleged by the Prosecution and that as per the evidence of PW.8, Motor Vehicles Inspector, there was no damage caused to the offending vehicle, which was driven by the Petitioner/Accused and that in the absence of any evidence to prove the rash and negligent driving of the offending vehicle by the Petitioner/Accused and that when no other independent witness has been examined to support the case of the Prosecution and there being no evidence to corroborate the ocular evidence with the medical evidence, the Petitioner/ accused cannot be held liable for the cause of death of the deceased and that there was also delay in lodging the First Information Report and on such grounds, he would pray for setting aside the impugned judgements of both the courts below, relying on the judgement of the Madurai Bench of the Madras High Court, reported in 2016 1 LW CrI. 39 (Mohamed Mustafa Vs. State of Tamil Nadu).

5.On the other hand, the learned Additional Public Prosecutor would submit that the Prosecution, through the cogent evidence, both oral and documentary evidence, particularly, the evidence of PW.1 to PW.3, who were the direct eye witnesses to the occurrence, beyond all reasonable doubts, has

proved its case that the accident had occurred only due the rash and negligent driving by the Petitioner/ accused and that the deceased died due to the grievous injuries sustained in the accident and hence, the impugned judgements of both the court below do not call for any interference by this Court.

6. I have given my careful and anxious consideration to the submissions of the learned counsel on either side and also perused the materials placed on record.
7. At the outset, in order to decide the question of negligence aspect, there should be clinching evidence to the effect that an offending vehicle was driven by an accused driver / Accused in a rash and negligent manner.
8. While analysing the evidence of PW.1, son of the deceased, the manner, in which the accident had occurred, has been clearly spoken to by PW.1. PW.1, in his evidence, had deposed that on 20.11.2006 at 16.30 hours, when his father, the deceased was proceeding in a TVS XL Motorcyle, bearing Reg.No.TN 39 A 3729, from South to North, on the Tiruppur-Perumanallur Road and PW.1 was proceeding in another Motorcylce at distance of 5 ft. behind the deceased, in front of a Pavithra Silks Shop, a Mini Bus, bearing Reg.No.TN 59 B 9819, driven by the Petitioner/ accused, in a rash and negligent manner, dashed against the deceased, due to which, the deceased succumbed to grievous injuries in the Hospital on 22.11.2006 at 4.00 p.m.
9. The evidences of PW.2 and PW.3 are corroborative in nature with each and they had deposed that on 20.11.2006 at 4.30 when they were taking tea in a Tea Shop at P.N.Road, they saw the deceased proceeding in the above said TVS Motorcylce, from South to North and at that time, the offending vehicle coming from West to East, turned to South, in a rash and negligent manner and dashed against the deceased.
10. PW.5, Regional Transport Officer had deposed that on inspection of the offending vehicle, he had given a certificate, Ex.P2, certifying that the accident had occurred not due to any mechanical fault and defect of the offending vehicle. With regard to the TVS Motorcylce driven by the deceased, PW.8 had certified under Ex.P4 that there was a damage in the front side of the TVS Motorcycle and that the accident would not have occurred due to mechanical defect. PW.3 Doctor had also certified under Ex.P3 certificate that the deceased sustained severe head injuries and the deceased died due to shock and haemorrhage. PW.7 Doctor had deposed that the deceased sustained grievous injuries on his left side head and ear and he had given post-mortem under Ex.P3 to that effect.
11. In so far as the ground of delay in filing the First Information Report is concerned, the son of the deceased had taken the deceased to the Hospital in an injured stage and he would have been concerned with the treatment to be given to his father rather than to give a complaint and thereby, the hospital had given the intimation to the Respondent

Police on 21.11.2006 since it was a medico legal case. PW.10 had deposed that on 21.11.2006 morning, he received information from the Hospital and he had registered the First Information Report at 10.30 a.m. Thus, the Prosecution has explained the delay satisfactorily.

12.It is seen from the above evidence, corroborative in nature with each other, that admittedly the deceased was driving from South to North, along the Tiruppur-Perumanallur Road. The Petitioner/Accused was driving the offending vehicle from West to East and turned South, in a rash and negligent manner. Admittedly, there was damage caused to the Two Wheeler, driven by the deceased and there was no mechanical fault on either of the vehicles. The entire injuries have been sustained on the left side head and body of the deceased.

13.The Trial Court, considering the oral and documentary evidence in proper perspective had found that the accident had occurred only due to the rash and negligent driving of the offending vehicle, by the Petitioner/Accused, resulting in the victim sustaining injuries due to which he succumbed to death and accordingly, convicted and sentenced him, as stated above. The lower appellate court had also confirmed the impugned judgement of conviction and sentence on the same grounds. Ultimately, in so far as the negligence aspect is concerned, this Court finds no infirmity or illegality in the impugned judgements of both the court below and accordingly, no interference is necessary, on this aspect.

14.The decision relied on by the learned counsel for the Petitioner cited supra is not applicable to the facts of the case, since the manner in which the accident had occurred in the case on hand, is different from that of the manner mentioned in the said decision of this Court. In the case referred to by the learned counsel for the Petitioner, this Court, finding that the distance between the place of collision and the place of halting is short, had found that the offending car would have been driven only in a normal speed. However, it is not the same in the case on hand. In the case on hand, the Prosecution has proved beyond doubt that the Petitioner had driven the vehicle in a rash and negligent manner and caused the incident resulting in the death of the victim.

15.Now coming to the question of quantum of sentence, it is stated that the Petitioner/ accused is a Driver, by profession and he has got two children. Considering the said facts, the period of sentence of one year Rigorous Imprisonment imposed by the Trial Court for the offence under Section 304A of IPC can be reduced to six months Rigorous Imprisonment.

16.In the result, this Criminal Revision Case is allowed in part. The period of sentence of one year Rigorous Imprisonment imposed by the Trial Court for the offence under Section 304A of IPC, as confirmed by the lower appellate court is reduced to six months Rigorous

Imprisonment. In all other aspects, the impugned judgements of the courts below are confirmed. The bail bond, if any, executed by the Petitioner/Accused is hereby cancelled. The Trial Court shall take necessary steps to commit the Petitioner/Accused in prison to undergo the remaining period of sentence, if any.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

Srcm

To:

- 1.The II Additional District Sessions Court, Tiruppur
- 2.The Judicial Magistrate I, Tiruppur.
- 3.The Public Prosecutor, High Court, Madras
4. The Inspector of Police
Tiruppur North Police Station
Tiruppur

+1cc to Mr.N.Manokaran, Advocate SR.No.86573

Crl.RC.No.228 of 2016

GP(CO)
GMY(06/12/2019)

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