



BAIL SLIP

The Petitioner viz., namely Kannan, S/o.Subramanian, was directed to be released on bail as per order of this Court dated 31.07.2015 made MP(MD)No.1/2015 in Crl.R.C.(MD) No.318 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : **12.09.2019**

PRONOUNCED ON : **16.10.2019**

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Crl.R.C.(MD) No.318 of 2015

Kannan

... Petitioner/Appellant/Sole Accused
Vs.

The Inspector of Police,
Puliyarai Police Station,
Shencottai Circle,
Tirunelveli District
Crime No. 106 of 2008

...Respondent/Respondent/Complainant

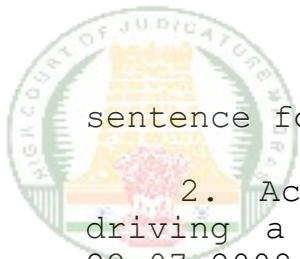
PRAYER: Criminal Revision Case is filed under Sections 397 & 401 of the Criminal Procedure Code to set aside the judgment in C.A.No.87 of 2013 dtd 14.03.2015 on the file of the learned IV Additional District Sessions Court, Tirunelveli by modified the sentence passed by the learned District Munsif Cum Judicial Magistrate, Shencottai in C.C.No.337 of 2008 dated 18.11.2013 and acquit the petitioner.

For Petitioner : Mr.R.Mathiyalagan

For Respondent : M/S.M.Anantha Devi
Govt.Advocate(Crl. Side)

O R D E R

This revision case has been filed against the order of conviction passed by the Judicial Magistrate, Shencottai, with C.C.No.337 of 2008 dated 18.11.2013 sentencing the revision petitioner to undergo 1 month simple imprisonment for offence under Section 279 IPC, 2 months simple imprisonment each for offence under Section 337 (3 counts) IPC and shall undergo 1 year simple imprisonment and fine of Rs.5000/- in default to undergo 1 month simple imprisonment for offence under Section 304(A) IPC. Against the order of conviction passed by the trial court, the petitioner has filed an appeal before the appellate court in C.A.No.87 of 2013 on the file of the IV Additional District and Sessions Court, Tirunelveli. The lower appellate court has partly allowed the appeal by its order dated 14.03.2015 modifying the sentence imposed for offence under Section 304(A) IPC to undergo 4 months simple imprisonment instead of 1 year and confirmed the conviction and



sentence for offence under Sections 279 and 337 IPC.

2. According to the prosecution, while the petitioner was driving a Eicher Lorry bearing registration No. TN-72-D-4082 on 22.07.2008 at about 10.15 a.m, the said vehicle dashed against one bullock cart. The passengers, who were in the bullock cart, were injured. According to the prosecution, 3 persons were injured and one person was severely injured and was later on, admitted to the hospital and succumbed to injuries.

3. Before the trial court, on behalf of the prosecution 12 witnesses were examined and 11 documents were marked and on behalf of the accused no witness was examined and no document was marked

4. The trial court after adverting to various materials placed on record and the evidence of the prosecution witnesses particularly P.W.1 to P.W.3, who were injured in the accident had recorded conviction as stated above. P.W. 1 to P.W.3 are direct witnesses and they have clearly deposed that the accused herein has driven the vehicle in a rash and negligent manner, which led to the accident and one person died and three persons were injured.

5. On behalf of the defence, it was contended that there was no proper identification of the driver and no eye witness was examined. However, the trial court has stated that the persons injured in the accident namely P.W.1 has clearly identified the driver of the lorry, who is the petitioner herein. Therefore, the trial court recorded conviction in fact practically no worthwhile defence was putforth by the accused. Thereafter, the appeal was filed before the lower appellate court and the lower appellate court though upheld the conviction by the trial has ultimately modified the sentence for offence under Section 304(A) IPC from 1 year simple imprisonment to 4 months simple imprisonment and the appellate order is challenged in this revision petition.

6. Although the learned counsel appearing for the revision petitioner would argue that there was no proper identification of the accused and the lower appellate court has not appreciated the same, this court is not inclined to accept the said argument for the simple reason that P.W.1 to P.W.3 have clearly deposed that they identified the accused as the person, who had driven the vehicle and caused the accident. The other witnesses have spoken about the accident uniformly without any material contradictions and therefore, the trial court has rightly recorded conviction.

7. However, the lower appellate court, taking into consideration the age of the accused and also considering the fact that this is first accident caused by the accused, thought fit to modify the punishment from 1 year simple imprisonment for offence under Section 304(A) IPC to 4 months and confirmed the sentence



8. This court has gone through the materials placed on record and also the grounds raised in the revision case. This Court is unable to see any worthwhile grounds raised in the revision petition for this Court to intervene, particularly in revisional jurisdiction.

9. However, learned counsel appearing for the petitioner pleaded that the petitioner herein is now married and he is the only bread winner of the family and in case the petitioner is to serve the remaining part of the sentence, not only the petitioner, his family members would also put to hardship and suffering. According to the learned counsel for the revision petitioner, the petitioner was imprisoned for a period of 20 days from 12.07.2015 to 01.08.2015 which fact was also admitted by the learned Government Advocate appearing for the State.

10. Therefore, the learned counsel would submit that the order of the first appellate court sentencing for a period of four months for offence under Section 304(A) IPC may be reduced to the sentence already undergone by the petitioner. The learned counsel for the petitioner would further submit that sentence already undergone may also hold good for offence under Sections 279 and 337 IPC as well.

11. Although the learned Government Advocate appearing for the State stoutly opposed the grant of further relief to the petitioner/accused since the lower appellate court has already granted relief by reducing the sentence from 1 year to 4 months, considering the facts and circumstances of the case, this Court is of the view that the petitioner, being a married person and has a family to support, any further incarceration would result in hardship and suffering not only to the petitioner and to his family members. As rightly held by the lower appellate court the petitioner is a first time offender and he has not involved in any other case.

12. Taking into consideration over all circumstances of the case, this Court further modifies the sentence as under:

The judgment of the lower appellate court convicting the petitioner and sentencing him to undergo 4 months simple imprisonment for offence under Section 304(A) IPC is reduced to the period of sentence already undergone by the revision petitioner/accused. The period of sentence already undergone would hold good for other offences under Sections 279 and 337 IPC (3 counts) as well.

This Court was informed that the petitioner has already paid a fine of Rs.5000/-.



13. In fine, this Criminal Revision petition is partly allowed as indicated above.

Sd/-

Assistant Registrar (CS-I)

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// True Copy //

Sub Assistant Registrar (CS)

CM

To

1. The IV Additional District Sessions Court, Tirunelveli .
2. The District Munsif Cum Judicial Magistrate, Shencottai
3. The Judicial Magistrate, Senkottai
4. Do Thro'
The Chief Judicial Magistrate, Tirunelveli
5. The Superintendent, Central prison, Palayamkottai
6. The Inspector of Police
Puliyarai Police Station, Senkottai Circle
Tirunelveli District
7. The Superintendent of Police
Tirunelveli District
8. The Section Officer, -2 copies
Criminal Section ,
Madurai Bench of Madras High Court, Madurai
9. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C. (MD) No.318 of 2015

16.10.2019

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