

**BAIL SLIP IN CRL.RC(MD)NO.193 OF 2011**

Jothinathan, S/o.Manickam, aged about 67 years was released on bail vide the Order of this Court dt.03.03.2011 made in MP(MD) No.1 of 2011 in Cr1.RC(MD)No.193 of 2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.R.C(MD)No.193 of 2011

Jothinathan

... Petitioner/Appellant/Accused

Vs

State by,
Inspector of Police,
Traffic Investigation Wing,
Thanjavur,
Thanjavur District.
(Crime No.129 of 2007)

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the conviction and sentence imposed on the petitioner in Cr1.A.No.98/2010 on the file of the First Additional Sessions Judge (PCR), Thanjavur confirming the Judgment in C.C.No.5 of 2008 on the file of the Judicial Magistrate No.3, Thanjavur acquit the petitioner.

For Petitioner : Mr.A.Arun Prasad

For Respondent : Mrs.S.Bharathi
Government Advocate (Cr1.side)**ORDER**

Heard the learned counsel on either side.

2.The petitioner was driving the lorry bearing Registration No.TN28F6339 in Thanjavur - Kalkulam Road and he was coming from north to south. The deceased Sagayaraj was riding his bicycle and coming from south to north. The accident had taken place on the western side of the road. That clearly indicates that the cyclist was going in the correct direction and it was only the petitioner who was responsible for the accident. That he had driven the lorry in a rash and negligent manner is evident from the occurrence spot itself.



3. In this regard, Crime No.129 of 2007, was registered on the file of the Inspector of Police, Traffic Investigation Wing, Thanjavur. The final report was filed and the learned Judicial Magistrate No.3, Thanjavur took cognizance of the offence under Section 304 (A) IPC in C.C.No.05 of 2008. The petitioner denied the charge and claimed to be tried. The prosecution examined as many as 14 witnesses and Ex.P1 to P8 were marked. The accused did not adduce any evidence to present his version. The learned trial Magistrate, by Judgment dated 22.09.2010, found the accused guilty of the offence under Section 304(A) IPC and sentenced him to one year rigorous imprisonment and also levied a fine of Rs.1000/- The same was confirmed by the First Appellate court in Criminal Appeal No.98 of 2010, dated 27.01.2011 on the file of the First Additional Sessions Judge(PCR), Thanjavur. The same is under challenge in this criminal revision petition.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memo of grounds.

5. A mere look at the rough sketch would clearly establish that it was the petitioner who was guilty of rash and negligent driving. Both the Courts below have concurrently found the petitioner guilty. I cannot re-appreciate the evidence. Therefore, the finding of conviction passed by the Courts below is confirmed. It is seen that the petitioner was aged about 67 years when the case was filed. Now he must be around 75 years. Therefore, I am of the view that the sentence of imprisonment imposed on him can be modified and it is accordingly reduced to one month simple imprisonment. In all other aspects, the Judgments of the Courts below are confirmed. This criminal revision petition is partly allowed. The trial Magistrate shall take steps to enforce this order.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Principal Sessions Judge,
Thanjavur.



2. The Inspector of Police,
Traffic Investigation Wing,
Thanjavur,
Thanjavur District.
3. The Judicial Magistrate No.3,
Thanjavur.
4. The Chief Judicial Magistrate,
Thanjavur.
5. The First Additional Sessions Judge (PCR),
Thanjavur.

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