

**BAIL SLIP**

Mr.Palanisamy, S/O.Mariyappan, age 40 years is released on bail vide Court order dated 06.04.2011 in MP(MD) No.2 of 2011 in CRL.R.C(MD)No.285 of 2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C(MD)No.285 of 2011

Palanisamy

... Petitioner/Appellant/Accused

Vs

The State represented by its,
The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.
(Crime No.610 of 2005)

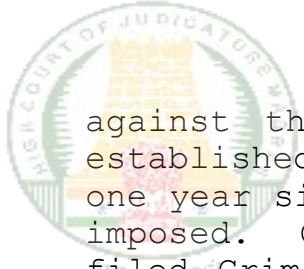
... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the entire records relating to the Judgment of the Additional District and Sessions Judge, Fast Track Court, Dindigul passed in C.A.No.47 of 2010, dated 22.02.2011 confirming the conviction and sentence passed by the learned Judicial Magistrate No.1, Dindigul in C.C.No.41 of 2006, dated 30.07.2010 and set aside the same by allowing the present criminal revision petition and acquit the petitioner/accused.

For Petitioner : Mr.S.Ramasamy

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

The petitioner was driving the lorry bearing Registration No.TN 28F 4011 on 15.09.2005 at about 7.20 a.m., in Dindigul-Madurai bypass road. When he was nearing Muthalagupatti Junction, the accident in question occurred leading to the death of the cyclist by name Veluchamy. Crime No.610 of 2005 was registered on the file of the Inspector of Police, Dindigul Taluk Police Station. Investigation was undertaken and final report was filed. The learned trial Magistrate took cognizance of the offence under Section 304 (A) of IPC. The petitioner denied the charge. The prosecution examined as many as 11 witnesses. They have also marked Ex.P1 to P7. On the side of the accused, the cleaner Anbazhagan was examined as D.W.1. The learned trial Magistrate, after a proper consideration of the evidence on record, came to the conclusion that the charge



against the petitioner framed under Section 304 (A) of IPC was established beyond reasonable doubt and sentenced the petitioner to one year simple imprisonment and a fine amount of Rs.1000/- was also imposed. Questioning the Judgment dated 30.07.2010, the petitioner filed Criminal Appeal No.47 of 2010 before the learned Additional District and Sessions Judge/Fast Track Court, Dindigul. The First Appellate Court, by Judgment dated 22.02.2011, dismissed the appeal and confirmed the Judgment passed by the learned trial Magistrate. Challenging the same, this revision petition has been filed.

2.The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds and wanted this Court to set aside the Judgments passed by the Courts below.

3.Per contra, the learned Government Advocate(Crl.side) wanted this Court to sustain the Judgments passed by the Courts below.

4.This Court carefully considered the rival contentions. It is not in dispute that the petitioner was driving the vehicle from south to north. The accident had taken place on the left end that is the western side. The cyclist was also going in the same direction. The petitioner's lorry had hit the cycle from behind and ran over the deceased Velusamy. It has been brought out in evidence that the cyclist was going on the extreme left end of the road. In other words, he was going on the correct side. It was the lorry driven by the petitioner that had hit him from behind. Both the Courts below have concurrently found that the petitioner's rash and negligent driving had caused the accident in question. I find no ground to interfere with the concurrent findings of guilt rendered by the Courts below. Therefore, the finding of conviction is confirmed. Now comes the question of sentence. The petitioner is aged about 49 years. He is the sole breadwinner of the family. The petitioner's counsel also pleaded a few other mitigating factors.

5.Taking note of the same, the period of imprisonment imposed on the petitioner is reduced from one year simple imprisonment to six months simple imprisonment. The period of incarceration already undergone by the petitioner shall be excluded in terms of Section 428 of Cr.P.C. The learned trial Magistrate shall take steps to enforce this order.

6.With this modification, this criminal revision petition is partly allowed.

Sd/-
Assistant Registrar(AS)

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Sub Assistant Registrar



To

1.The Additional District and Sessions Judge,
Fast Track Court, Dindigul.

2.The Judicial Magistrate No.1, Dindigul.

3.The The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION (RECORDS),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
(2 COPIES)

Cr1.R.C (MD) No.285 of 2011
24.06.2019

RMI
JM/03.09.2019/3P/6C