

**Bail Slip**

The Appellant/Accused viz. Chelladurai, S/o.Dharmar was ordered to be released on bail as per this Court order dated 14.06.2011 and made in MP(MD)No.2 of 2011 in CrI.RC(MD) No.434 of 2011.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 27.06.2019****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****CrI.R.C.(MD)No.434 of 2011**

Chelladurai

... Petitioner/Appellant/
Accused

Vs.

The State Rep. by
The Inspector of Police,
Sattur Town Police Station,
Virdhunagar District.

... Respondent/Respondent
Complainant

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to set aside the order of dismissal of an appeal dated 09.06.2011 in C.A.No.239 of 2007, on the file of the learned Principal Sessions Judge, Virudhunagar District in Srivillipurthur confirming the order of conviction dated 27.11.2007 in C.C.No.222 of 2005 passed by the learned Judicial Magistrate No.II, Sattur with a modification to undergo simple imprisonment for 10 months and allow this criminal revision case.

For Petitioner : Mr.Michael Bharathi

For Respondent : Mr.A.Robinson

Government Advocate (CrI. Side)

O R D E R

The petitioner was driving the water tanker lorry bearing Registration No.TMN 5320 on 30.10.2005 at about 02.15 p.m. in Sattur-Sivakasi road. He hit the deceased Kalaiselvan, who was riding his two wheeler bearing Registration No.TN 22 D 7482 and caused his death. In this regard Crime No.630 of 2005 was registered on the file of Sattur Town Police Station for the offence under Section 304(A) of I.P.C. Investigation was undertaken and final report was filed and the learned Judicial Magistrate No.II, Sattur took cognizance of the offence under Section 304(A) of I.P.C. The petitioner denied the charges and claimed to be tried.

2.The prosecution examined as many as 10 witnesses and marked Ex.P.1 to Ex.P.8.

3.The learned Trial Magistrate by judgment dated 27.11.2007 found the petitioner's guilty of the offence under Section 304(A) of I.P.C. and sentenced him to two years simple imprisonment and also



levied fine of Rs.2,000/-. Questioning the same, the petitioner filed C.A.No.239 of 2007 on the file of the learned Principal Sessions Court, Virudhunagar District at Srivilliputhur. The Appellate Court by judgment dated 09.06.2011 while confirming the conviction imposed by the Trial Court, reduced the imprisonment from two years simple imprisonment to ten months simple imprisonment. The same is under challenge in this criminal revision case.

4.The petitioner's counsel reiterated all the contentions set out in the memorandum of grounds and wanted this Court to set aside the judgments of the Courts below.

5.Per contra, the learned Government Advocate (Crl. Side) wanted this Court to sustain the judgment passed by the Appellate Court.

6.I carefully considered the rival contentions and went through the evidence on record. From Ex.P.8/rough sketch one can see that the petitioner was coming from Subburaj garden from south to north and took a turn towards west in Sattur-Sivakasi road. At that time, the ill-fated two wheeler was also coming from east to west in the very same road. It was the petitioner who was entering the east-west highway from southern side. Therefore, it was the petitioner who ought to have taken sufficient care. The two wheeler rider cannot be blamed at all. The petitioner's counsel submitted that the accident spot was hardly 20 feet from where the water was drawn. May be the petitioner was not driving the vehicle in a rash manner, but then, the petitioner's negligence is so apparent. The Motor Vehicle Inspector report/Ex.P.5 would clearly indicate that the right side bumper of the lorry was damaged. This is a clear give away. Therefore, the Courts below rightly came to the conclusion that the petitioner was guilty of the offence under Section 304(A) of I.P.C. The well considered judgments of the Courts below do not deserve any interference. The conviction imposed on the petitioner is confirmed.

7.The petitioner is now aged about 71 years and therefore, I am of the view that some indulgence can be shown in the matter of imprisonment even while sustaining the conviction. The sentence of imprisonment is reduced from ten months simple imprisonment to three months simple imprisonment. The learned Trial Magistrate shall take steps to enforce this order. With this modification in the matter of sentence, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar (AD-I)

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To:

1.The Principal Sessions Judge,
Srivillipurthur,
Virudhunagar District.

2.The Judicial Magistrate No.II,
Sattur.

3.The Inspector of Police,
Sattur Town Police Station,
Virudhunagar District.

4.The Superintendent, Central Prison,
Madurai.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High court,
Madurai.

+1 CC to Mr.V.SASI KUMAR, Advocate SR-72114.

Cr1.R.C. (MD) No.434 of 2011
27.06.2019

CS(21.08.2019) 3P 7C