



Bail Slip

Mr.Manikkasundaram, S/o.Raju, age 43 years was released on bail vide, this Court order dated 01.07.2011 made in MP.1/2011 in Crl.R.C(MD)No.487 of 2011.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.487 of 2011

Manikkasundaram

... Petitioner/Appellant/Accused
Vs.

The State through
The Inspector of Police,
Manaparai Police Station,
Manaparai,Trichy District.

... Respondent/Respondent/
Complainant

(Crime No.813 of 2009)

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to allow the present revision by setting aside the judgment of the learned Additional Sessions Judge, Fast Track Court No.II, Trichy, in C.A.No.137 of 2010, dated 11.05.2010 and the judgment of the learned Judicial Magistrate, Manaparai, in C.C.No.282 of 2009, dated 08.10.2010 and acquit the petitioner/appellant/accused.

For Petitioner : Mr.R.Murugan

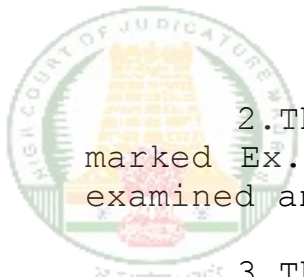
For Mr.RM.Sivakumar

For Respondent : MrA.Robinson

Government Advocate (Crl. Side)

O R D E R

The petitioner was driving the corporation bus bearing Registration No.TN 45 N 1850 in Dindigul-Trichy NH Road on 03.10.2009 at about 08.30 p.m. The bus was coming from east to west and took a turn towards north in Pothampatti road. The two wheeler bearing Registration No.TN 50 D 8754 ridden by one Manoharan/the police head constable was coming from west to east. Two vehicles collided and as a result of the accident, Manoharan died on the spot. Hence Crime No.813 of 2009 was registered on the file of Manaparai Police Station. Based on the complaint/Ex.P1, investigation was undertaken and final report was filed and the learned Judicial Magistrate, Manaparai took cognizance of the offence under Sections 297 and 307(A) of I.P.C. The petitioner herein pleaded not guilty of the offence and claimed to be tried.



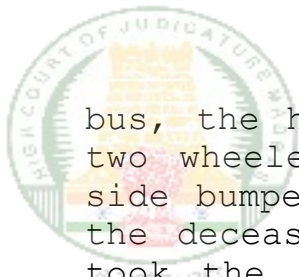
2.The prosecution examined as many as 14 witnesses and marked Ex.Ps.1 to 9. On the side of the accused no witness was examined and marked Ex.D.1.

3.The learned Trial Magistrate by judgment dated 08.10.2010 found the petitioner's guilty of the charges and sentenced him to undergo three months rigorous imprisonment for the offence under Sections 279 and six months rigorous imprisonment for the offence under Section 307(A) of I.P.C. The total fine amount of Rs.1,500/- was imposed. Questioning the same, the petitioner filed C.A.No.137 of 2010 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.II), Trichy. The Lower Appellate Court while confirming the conviction imposed on the petitioner, set aside the sentence of imprisonment and instead levied the fine of Rs.25,000/- and default sentence of six months simple imprisonment was also imposed. Challenging the same, this criminal revision case has been filed.

4.This Court perused the rough sketch/Ex.P.7, the photographs/Ex.D.1 and the motor vehicle inspection reports/Ex.Ps.3 and 4. It is not in dispute that the accident had taken place at a junction. Bus was coming from east to west and had taken a turn towards north and the accident had taken place at the intersection between Dindigul-Trichy main road and Pothampatti road. There is a tamarind tree on the northern-eastern side. The deceased/two wheeler rider was coming from west to east and after the bus collided, the two wheeler hit the tamarind tree. The deceased/Manoharan had died on the spot.

5.The case of the prosecution is that the bus had run over the deceased. But a mere look at Ex.D.1/photographs would indicate that the blood from the body of the deceased had spilled on the ground and there is a gap of quite a few feet from the blood stained spot and the bus. Ex.P.4/the inspection report submitted by the motor vehicle inspector in respect of the damage caused to the bus also shows that the front right side of the bus bumper alone was damaged. The occurrence had taken place at around 8.30 p.m. From the photographs/Ex.D.1 one can come to the conclusion that the two wheeler which was coming from west to east tried to get past the bus which was taking right turn towards Pothampatti road.

6.As rightly contended by the learned counsel appearing for the revision petitioner and also a reading of the testimony of P.Ws.1 and 2 would show that they have not witnessed the occurrence directly. These circumstances namely., the occurrence of the accident at the intersection of Pothampatti road and the Dindigul-Trichy main road, the time of occurrence namely., 08.30 p.m. the presence of blood stains quite a few feet away from the



bus, the hitting of the two wheeler in the tamarind tree and the two wheeler not falling on the same place, damage to the right side bumper of the bus would cumulatively go to show that it was the deceased who in his anxiety to speed past the bus before it took the right turn was the cause for the occurrence. In any event, the evidence on record is not sufficient to come to the conclusion that the prosecution established its case beyond reasonable doubt. The Courts below have not gone into these material aspects. Therefore, the judgments of the Courts below are set aside and the accused is acquitted and the criminal revision case is allowed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)

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To:

1.The Additional Sessions Judge,
Fast Track Court No.II, Trichy,.

2.The Judicial Magistrate,
Manaparai.

3.The Inspector of Police,
Manaparai Police Station,
Manaparai, Trichy District.

+1 CC to M/s.RM.SIVA KUMAR, Advocate (SR-70808[F] dated
24/06/2019)

Crl.R.C. (MD)No.487 of 2011
24.06.2019

KM/ (24.09.2019) 3P 5C