

**BAIL SLIP**

The Appellant/Accused namely Udhayachandran S/o. Nilavalagan was directed to be released on bail as per order of this court dated 05.01.2011 and made in MP(MD).No.1 of 2011 in CRL RC(MD).5 of 2011 on the file of this court.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 20.06.2019****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****Cr1.R.C. (MD) No.5 of 2011**

Udhayachandran

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District.
(Crime No.76 of 2008)

... Respondent

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records on the file of the learned Additional District Judge (EC Court), Thanjavur in C.A.No.26 of 2010 by judgment dated 20.12.2010, confirming the conviction and sentence imposed by the learned Judicial Magistrate No.III, Thanjavur in C.C.No.138 of 2010 by the judgment dated 16.02.2010 and set aside the judgments of the Courts below and acquit the petitioner.

For Petitioner : Mr.G.Karnan

For Respondent : Mrs.S.Bharathi
Government Advocate (Cr1. Side)

O R D E R

The petitioner was riding the two wheeler on 31.03.2008 at about 02.00 p.m. in Ayyampettai to Asuramangudi road. The petitioner was riding his vehicle from east to west. It is stated that he was attempting to overtake a bullock cart and while doing so, he hit a pedestrian who was coming from west to east. The deceased/Krishnan was aged about 60 years. He suffered injuries and died. Therefore, Crime No. 76 of 2008 was registered on the file of Ayyampettai Police Station. Investigation was undertaken and final report was filed and the same was taken on file in C.C.No.138 of 2008, on the file of the learned Judicial Magistrate No.III, Thanjavur.

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2.The learned Trial Magistrate framed charge under Section



304(A) of I.P.C. r/w Section 181 of Motor Vehicles Act. The petitioner herein not plead guilty but claimed to be tried.

3. In support of the prosecution, as many as 11 witnesses were examined. Ex.P.1 to Ex.P.8 were marked. On the side of the accused no evidence was adduced.

4. The learned Trial Magistrate by judgment dated 16.02.2010 found the accused guilty of the said offence and sentenced him to undergo one year rigorous imprisonment and a sum of Rs.1,000/- was levied as fine. Questioning the same, the petitioner filed C.A.No.26 of 2010 before the learned Additional District Judge (EC Court), Thanjavur. The Appellate Court by judgment dated 20.12.2010 dismissed the appeal and confirmed the sentence. Challenging the same, this criminal revision case has been filed.

5. The learned counsel appearing for the revision petitioner reiterated the contentions set out in the memorandum of grounds.

6. I am not persuaded by the same. As rightly pointed out by the learned Government Advocate (Crl. Side) appearing for the respondent, a mere look at Ex.P.5/rough sketch would show that it was the petitioner who was completely at fault. The petitioner was riding the two wheeler from east to west. The accident had occurred on the extreme right side that is on the northern side. It clearly shows that the petitioner came to the extreme northern side. That is how the accident in question had taken place. The pedestrian was coming on the correct side. The petitioner hit the pedestrian and caused his death. That apart the petitioner herein did not step in to the witness box to give his version. The Courts below came to the conclusion that the prosecution has proved its case beyond reasonable doubt. The finding of guilt given by the Trial Magistrate was confirmed by the Appellate Court also. I am only exercising revisional jurisdiction. I cannot re-appreciate the evidence. The finding of guilt given by the Courts below stands confirmed. However, taking note of the facts and circumstances of the case, some indulgence can be shown in the matter of sentence. The Courts below have sentenced the petitioner to undergo one year rigorous imprisonment. I am of the view that this can be reduced to four months rigorous imprisonment. With this modification, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

ias

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To:

1. THE ADDITIONAL DISTRICT JUDGE-CUM SPECIAL COURT (EC COURT),
THANJAVUR.

2. DO THROUGH, THE PRINCIPAL SESSIONS JUDGE, THANJAVUR.

3. THE JUDICIAL MAGISTRATE NO. III,
THANJAVUR.

4. DO THROUGH, THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR.

5. THE INSPECTOR OF POLICE,
AYYAMPETTAI POLICE STATION,
THANJAVUR DISTRICT.

6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO

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

+1CC TO MR. G. KARNAN, Advocate Sr. No. 70294

Crl.R.C. (MD) No. 5 of 2011
20.06.2019

AVS (CO)
TR (28.08.2019) 3P 10C