

**Bail Slip**

S.Ravi, S/o.Sagathevan, aged about 45 years was released on bail vide order made in MP(MD)No.1/2011 in CRL RC (MD)No.539/2011

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrl.R.C.(MD)No.539 of 2011

S.Ravi

... Petitioner/Appellant

Vs.

State through the Sub Inspector of Police/
Solavanthan Police Station,
Madurai District.

(Crime No.2 of 2007)

... Respondent/Complainant

Prayer : This Criminal Revision petition is filed under Sections 397 and 401 of Cr.P.C., to call for the lower Court records in Criminal Appeal No.6 of 2010 dated 11.04.2011 on the file of the Fast Track Court No.I(Additional Sessions Judge), Madurai in C.C.No.298 of 2008, dated 08.01.2010 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti and to set aside the order passed by the lower Courts.

For Petitioner : M/s.D.Deepamathi,
Legal Aid Counsel.

For Respondent : M/s.S.Bharathi,
Government Advocate(Crl.Side).

ORDER

The petitioner was driving a school van bearing registration No.TN 59-S-2495 on 05.01.2007 at about 5.00 p.m. in Melanatchikulam Village. The van hit a little child, by name, Ishwarya Priya and she died as a result later. In this regard, Crime No.2 of 2007 was registered on the file of the Solavanthan police station. Investigation was undertaken and final report was filed against the petitioner before the learned Judicial Magistrate, Vadipatti. The learned trial Magistrate took cognizance of the offence under Section 304(A) of I.P.C., in C.C.No.298 of 2008. The petitioner denied the charge and claimed to be tried. The prosecution examined as many as 10 witnesses and marked Ex.P.1 to Ex.P.7. On the side of the accused, no evidence was adduced. The learned trial Magistrate by Judgment dated 08.01.2010 found the petitioner guilty of the offence under Section 304(A) of I.P.C. and sentenced him to undergo 1 year Simple Imprisonment. Questioning the same, the petitioner filed C.A.No.6 of 2010 before the learned Additional Sessions Judge, Fast Track Court No.1, Madurai. By Judgment dated 11.04.2011, the



appellate Court dismissed the criminal appeal and confirmed the Judgment of the learned trial Magistrate. Questioning the same, this Criminal Revision has been filed.

2. When the matter was taken up for hearing, there was no representation on the side of the petitioner. This Court therefore directed the Registry to appoint a Legal Aid counsel. Accordingly, the Legal Aid counsel was appointed. The learned counsel representing the Revision petitioner appeared before me today.

3. The learned Legal Aid counsel reiterated all the contentions set out in the memorandum of grounds. She pointed out that the road in question was a very narrow one and that even according to the prosecution witness, the child had a habit of darting across the road and it was only in the process, the accident had occurred. She further submitted that the petitioner cannot be fastened with penal liability. The petitioner is an innocent person. The accident had occurred because of the mistake committed by the child.

4. I am unable to agree with the petitioner's submissions. The petitioner was driving a school van. The van was going from south to north. The accident had taken place on the eastern side. Of course the road in question was very narrow and the child could have run across the road. If the petitioner had not been rash or negligent, the accident would not have occurred. The accident had taken place in the evening hours. Therefore, there must have been sufficient visibility. I cannot forget to note that the petitioner was driving a school van. The place of occurrence is on the right side of the road. Therefore, the van must have swerved on the wrong side and that is how the accident must have occurred. The Courts below concurrently found the petitioner guilty. I find no ground to interfere with the Judgments passed by the Courts below. However taking note of the fact that the occurrence had taken place some 11 years ago, the sentence of imprisonment imposed on the petitioner can be reduced from 1 year Simple Imprisonment to 6 months Simple Imprisonment. Except the modification in the matter of sentence, the Judgment of the appellate Court stands otherwise confirmed. In other words, conviction of the petitioner is confirmed. Sentence alone is modified.

5. This Criminal Revision stands partly allowed, accordingly. The learned trial Magistrate is directed to secure the petitioner to undergo the remaining period of sentence. The bail bond, if any, executed by the petitioner shall stand cancelled. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //



To

1. The Additional Sessions Judge,
(Fast Track Court No.I), Madurai District.
2. Do thro The Principal Sessions Judge,
Madurai
3. The District Munsif cum Judicial Magistrate,
Vadipatti.
4. The Chief Judicial Magistrate,
Madurai
5. The Sub Inspector of Police/
Solavanthan Police Station,
Madurai District.
6. The Section Officer,
Criminal Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.DEEPAMATHI, Advocate (SR-72984[F] dated 03/07/2019)

Crl. R.C. (MD) No.539 of 2011
01.07.2019

pmu

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