

**BAIL SLIP**

The Petitioner herein viz., namely Vedaraj, S/o.Masilamani, was released on bail as per order date 20.07.2011 made in MP(MD)No.4 of 2011 in CrI RC(MD)No.559 of 2011.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.R.C(MD)No.559 of 2011

Vedaraj

... Petitioner

Vs

State represented by,
The Sub Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.
(Crime No.121 of 2007)

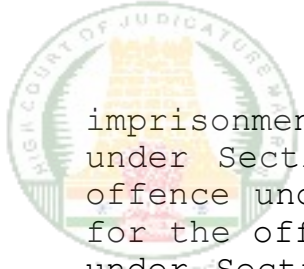
... Respondent

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the Judgment made in C.C.No.137 of 2007, dated 13.09.2010 on the file of the learned District Munsif cum Judicial Magistrate, Thiruvadanai confirmed in Criminal Appeal No.44 of 2010, dated 23.12.2010 on the file of the learned District and Sessions Judge, Ramanathapuram.

For Petitioner : Mr.R.R.Kannan

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

The petitioner was driving a 407 Van bearing Registration No.TN 55 0933 on 14.05.2007 at about 1.40 p.m., in NH 210 Devakottai Road. He was driving the vehicle from west to east, at that time, a Tata Indica Car bearing registration No.TN 65 F 9192, was coming from east to west. There was a head on collision. In the resulting accident, one Sundarrajan who was driving a Tata Indica Car died on the next day and his wife suffered injuries. Therefore, Anbarasi sister of the deceased gave Ex.P1-complaint leading to registration of Crime No.121 of 2007 on the file of the Sub Inspector of Police, Thiruvadanai Police Station, Ramanathapuram District(Ex.P10). Investigation was undertaken and final report was filed. The learned Judicial Magistrate, Thiruvadanai took cognizance of the offence under Sections 279, 337 and 304(A) of IPC. The petitioner denied the charge and claimed to be tried. The trial Magistrate, by Judgment dated 13.09.2010 convicted the petitioner for the offence under Sections 279, 337, 304(A) of IPC and sentenced him to

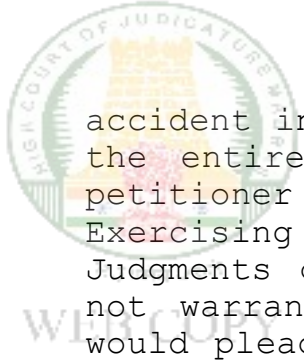


imprisonment and levied with the fine of Rs.500/- for the offence under Section 279 of IPC, levied with fine of Rs.500/- for the offence under Section 337 of IPC and one year rigorous imprisonment for the offence under Section 304(A) of IPC and for the said offence under Section 304(A) of IPC, fine amount of Rs.4,000/- was imposed and default sentence was also imposed. Questioning the same, the petitioner filed Criminal Appeal No.44 of 2010 before the Principal District and Sessions Judge, Ramanathapuram. By Judgment dated, 23.12.2010, the Lower Appellate Court dismissed the criminal appeal and confirmed the Judgment of the trial Court. Questioning the same, this criminal revision case has been filed.

2.The learned counsel appearing for the petitioner submitted that the accident had occurred entirely on account of the negligence of the Car driver namely deceased Sundarrajan. He would contend that the petitioner who was driving the vehicle from west to east, had tried to avoid the Car which was coming on the wrong side and that caused the accident. He also reiterated all the other contentions set out in the memo of grounds.

3. I am unable to agree with the submission of the learned counsel appearing for the petitioner. As rightly contended by the learned Government Advocate(Crl.side) appearing for the prosecution, a mere look at the rough sketch-Ex.P11, would show that the Car was coming from east to west on the correct side of the road. She drew my attention to the testimony of P.W.1-Anbarasi who would clearly state that the Van was driven in a rash and negligent manner and hit the Car and thereafter, capsized on the left side of the road. The Van driver namely the petitioner herein is said to have abandoned the vehicle and ran away. The testimony of P.W.1 is consistent with Ex.P11-Rough Sketch. The petitioner was the best person who have spoken with regard to the manner of occurrence. He did not enter the witness box. Of-course, an accused in a criminal case, is not obliged to enter the witness box and no adverse inference can be taken against him for not deposing. But then, he is the best person to speak about the occurrence and if the best evidence from him is not forthcoming, the Courts cannot be blamed for going by the unshaken testimony and evidence adduced by the prosecution. Ex.P3 and Ex.P4 are the inspection reports of the Motors Vehicle Inspector who had mentioned the damage caused to the respective vehicles. Ex.P3 is the inspection report pertaining to the Van. While Ex.P4 is the inspection report of the Car. It is seen that the right side of the Van was damaged.

4.A careful reading of the two inspection reports would go to show that the front right side body of both vehicles have suffered damage. From the location of the Car in the rough sketch, one can note that the car was coming in the correct direction. It is only the Van that had hit the Car by slightly swaying to the wrong side that is moving towards the southern side. Therefore, the Courts below are justified in coming to the conclusion that the rash and negligent driving on the part of the petitioner had caused the



accident in question. The Courts below, after a careful perusal of the entire evidence on record, have concurrently found that the petitioner is guilty of the offences, with which, he was charged. Exercising my revisional jurisdiction, I am satisfied that the Judgments of the Courts below are based on sound reasoning and do not warrant any interference. However, the petitioner's counsel would plead that the sentence of imprisonment may be reduced. The occurrence had taken place way back in the year 2007. More than 12 years have gone by. Therefore, I am of the view that some indulgence can be shown in the matter of sentence. Therefore, even while confirming the Judgments passed by the Courts below in all other aspects, the sentence of one year simple imprisonment imposed for the offence under Section 304(A) of IPC is reduced to six months simple imprisonment. This criminal revision case is partly allowed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The District and Sessions Judge, Ramanathapuram.
- 2.The District Munsif cum Judicial Magistrate, Thiruvadanai.
- 3.The Judicial Magistrate, Thiruvadanai, Ramanathapuram District.
- 4.The Sub Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.RR.KANNAN ,Advocate, SR No.71544

Cr1.R.C(MD)No.559 of 2011
25.06.2019

KK/27.05.2020/ 3P- 7C