

**BAIL SLIP**

Jebaraj, Revision Petitioner/Accused S/o.Chelliah, aged about 35 years is released on Bail vide Court order dated 03.08.2011 made in MP(MD)No.1 of 2011 in CRL RC(MD) No.599 of 2011.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C. (MD)No.599 of 2011

Jebaraj

... Petitioner/Appellant/Accused

Vs.

State represented by,
The Inspector of Police,
Traffic Police Investigation Wing,
Perumalpuram Police Station,
Tirunelveli District.
(Crime No.376 of 2007)

... Respondent/Respondent/Complainant

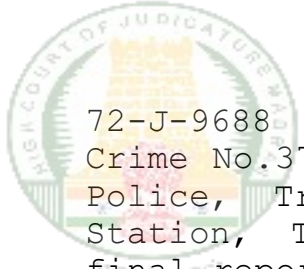
Prayer : This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to admit this Revision on file, call for the records from the lower Courts and to duly set aside the Judgment passed by the learned I Additional Sessions Judge, Tirunelveli, Tirunelveli District in his C.A.No.23 of 2011, dated 19.07.2011 confirming the Judgment of the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District in C.C.No.193 of 2008, dated 18.02.2011 by allowing this Revision.

For Petitioner : Mr.V.Kathirvelu,
Senior Counsel,
for Mr.K.Prabhu.

For Respondent : Mr.A.Robinson,
Government Advocate
(Crl. Side).

ORDER

The petitioner was driving Tata 407 vehicle bearing Registration No.TN 69-F-9326 in Tirunelveli-Thiruvananthapuram road on 26.05.2008 at about 2.45 p.m. A two wheeler ridden by the deceased was coming from the opposite direction. There was a collision between the two. In the resulting accident, one David Manoharan who was riding the two wheeler bearing Registration No.TN



72-J-9688 died. The pillion rider also suffered injuries. Hence Crime No.376 of 2008 was registered on the file of the Inspector of Police, Traffic Police Investigation Wing, Perumalpuram Police Station, Tirunelveli District. Investigation was undertaken and final report was filed before the learned Judicial Magistrate No.1, Tirunelveli. The learned trial Magistrate took cognizance of the offence under Sections 304(A), 279 and 337 of I.P.C. against the Revision petitioner. The Revision petitioner herein pleaded not guilty and claimed to be tried. The prosecution examined as many as 12 witnesses and marked Ex.P.1 to Ex.P.10. On the side of the accused, no evidence was adduced.

2. The learned trial Magistrate by Judgment dated 18.02.2011 found the petitioner guilty of the offence under Sections 304(A), 279 and 337 of I.P.C. and sentenced him to undergo 1 year Simple Imprisonment, six months Simple Imprisonment and 1 month Simple Imprisonment respectively. He was also levied with fine of Rs.6,500/-. The sentences were to run concurrently. Questioning the same, the petitioner filed C.A.No.23 of 2011 before the learned I Additional Sessions Judge, Tirunelveli. By Judgment dated 19.07.2011, the lower appellate Court dismissed the appeal and confirmed the Judgment passed by the Court below. Challenging the same, this Criminal Revision has been filed.

3. Heard the learned counsel appearing for the Revision petitioner and the learned counsel appearing for the prosecution.

4. This Court had a look at Ex.P.8 Rough Sketch. It is seen therefrom that the petitioner was driving his van from south to north on Tirunelveli-Madurai road. Admittedly, the two wheeler ridden by the deceased was coming from north to south. As per the Rough Sketch, the accident had taken place on the eastern side of the road. In other words, the two wheeler was coming on the correct side and the petitioner's van hit the two wheeler and caused the accident. But the occurrence spot is not clear if the Motor Vehicle Report is taken into account. This Court had a look at Ex.P.6 which was marked through P.W.11. It has been stated in the said report that the left side of the van was damaged and the front left side wheel mudguard body was damaged and the front left side headlight was damaged and the indicator light was damaged. These three damages caused to the van would give an indication that the two wheeler was coming not on the left side but on the wrong side of the road. That is how damage to the left side of the van had occurred.

5. Therefore, I am of the view that the case of rash and negligent driving had not been made out. In fact P.W.1 who is the defacto complainant in this case had stated in his cross examination that the occurrence was on the western side of the bypass road. This admission made by P.W.1 in his cross examination had not been taken note of by the Courts below. This vitiates their Judgments.



6. In this view of the matter, the conviction and sentence imposed by the Courts below are set aside. The Criminal Revision stands allowed. No costs.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (AS)

Sub Assistant Registrar (CS)

To

1. The I Additional Sessions Judge,
Tirunelveli, Tirunelveli District.
2. The Judicial Magistrate No.I,
Tirunelveli, Tirunelveli District.
3. The Inspector of Police,
Traffic Police Investigation Wing,
Perumalpuram Police Station,
Tirunelveli District.
4. The Superintendent,
Central Prison, Palayamkottai
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.PRABHU, Advocate (SR-71625[F] dated 26/06/2019)

CrI. R.C. (MD) No.599 of 2011
25.06.2019

PMU

MK (24.07.2019) 3P 9C