

Bail Slip

Manoharan, Male aged 49 years/2011, S/o.Rajamanickam, Revision Petitioner/Petitioner was released on bail of this Court order dated 29.07.2011 made in MP(MD)No.2 of 2011 in CrI.RC(MD) No.602 of 2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrI.R.C.(MD)No.602 of 2011

Manoharan

.. Revision petitioner/
Petitioner

Vs.

The State represented by,
The Inspector of Police,
Ayyempettai Police Station,
Papanasam Taluk,
Thanjavur District.

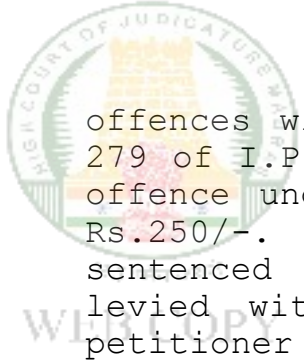
.. Respondent/Respondent

Prayer : This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the Judgment dated 05.02.2011 in C.A.No.85 of 2010 on the file of the learned Additional District Sessions Judge cum Fast Track Court No.I, Thanjavur, confirming the Judgment in C.C.No.212 of 2008, dated 06.07.2010 on the file of the learned Judicial Magistrate No.III, Thanjavur and set aside the same.

For Petitioner : Mr.T.Ebenazar
For Respondent : Mr.A.Robinson,
Government Advocate(CrI. Side).

ORDER

The petitioner was driving a private bus bearing Registration No.TN 49-R-9889 on 13.09.2008 at about 9.45 p.m. in Kumbakonam-Thanjavur main road. The bus in question was involved in an accident and one Murugesan who was riding a bicycle was injured. He died one day later. In this regard, crime No.204 of 2008 was registered on the file of the Ayyempettai police station against the petitioner herein for the offences under Sections 279, 337 and 304(A) of I.P.C. Investigation was undertaken and final report was filed before the learned Judicial Magistrate No.3, Thanjavur. The learned trial Magistrate took cognizance of the offences under Sections 279, 337 and 304(A) of I.P.C. The petitioner denied the charges framed against him and claimed to be tried. The prosecution examined as many as 13 witnesses and marked the documents Ex.P.1 to Ex.P.12. On the side of the accused, no evidence was adduced. The learned trial Magistrate after a careful consideration on the evidence of record by Judgment dated 06.07.2010 found the petitioner guilty of the



offences with which he was charged. For the offence under Section 279 of I.P.C., he was also levied with a fine of Rs.250/-. For the offence under Section 337 of I.P.C. he was levied with a fine of Rs.250/-. For the offence under Section 304(A) of I.P.C. he was sentenced to undergo one year Rigorous Imprisonment and he was levied with a fine of Rs.1,000/-. Questioning the same, the petitioner filed C.A.No.85 of 2010 before the learned Additional District and Sessions Judge, Thanjavur. By Judgment dated 05.02.2011, the criminal appeal was dismissed and the Judgment passed by the Court below was confirmed. Challenging the same, the Criminal Revision has been filed.

2. The learned counsel appearing for the petitioner contended that the bus was going on the correct side and that the accident had taken place only in view of the negligence of the cyclist. In fact the petitioner's counsel would claim that the bus did not hit the cycle at all and that the cyclist was in a drunken condition and he lost his balance and fell on the cement concrete slab. He also contended that the theory of bus hitting the cycle projected by the prosecution should be disbelieved because the cycle was never recovered. He also pointed out that the bus did not suffer any damage.

3. I am not persuaded by the submissions of the learned counsel appearing for the petitioner. A mere look at Ex.P.9 Rough Sketch would show that the accident had taken place where the road takes a sharp turn towards north. The cyclist was coming from north to south and was turning towards east. From the occurrence spot marked in Ex.P.9 Rough Sketch, one can come to the conclusion that the cyclist was coming in the correct direction and no fault can be attributed by him. The bus driven by the petitioner was going from east to west and took a turn towards north. Thus the occurrence had taken place on the point where the road was having a sharp northern turn. It is seen that the occurrence was on the extreme eastern end. The injured witness P.W.1 as well as another eyewitness, namely, P.W.10 have deposed that a Board has been erected near the spot warning the drivers not to drive fast as it was a dangerous curve. It is obvious that the petitioner had been rash and negligent and that is why the occurrence had taken place. If the petitioner had kept to the extreme left end while taking a turn, the accident would not have occurred. The petitioner had gone perilously close to the right end while taking a turn towards north. The Courts below concurrently found the petitioner guilty of the offences with which he was charged.

4. I find no ground to interfere with the Judgments passed by the Courts below. It is not in dispute that the cyclist Murugesan died. In fact P.W.1 deposed that the bus hit the cyclist Murugesan and he was in an injured condition. After a careful perusal of the testimony of the witnesses of P.W.1 and P.W.10 and Ex.P.9 Rough Sketch, I am of the view that no interference is called for. P.W.9 is the Doctor who performed postmortem on the deceased Murugesan. He



had deposed that the injuries on the deceased could be caused by the collision with the bus.

5. In view of these aspects, I find no ground to interfere with the Judgments of conviction passed by the Courts below. The petitioner's counsel would submit that indulgence can be shown in the matter of punishment. This is because more than 10 years have elapsed. The place of occurrence has been described by the prosecution itself as a dangerous curve. Therefore, I am of the view that interest of justice will be served by reducing the period of sentence from 1 year Rigorous Imprisonment for the offence under Section 304(A) of I.P.C. to 6 months Simple Imprisonment.

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

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Additional District Sessions Judge cum
Fast Track Court No.I, Thanjavur.
 - 2.The Principal Sessions Judge, Thanjavur.
 - 3.The Judicial Magistrate No.III, Thanjavur.
 - 4.The Chief Judicial Magistrate, Thanjavur at Kumbakonam.
 5. The Inspector of Police,Ayyempettai Police Station,
Papanasam Taluk,Thanjavur District.
 - 6.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.
 - 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to Mr.T.A.EBENEZER, Advocate SR-71354.

CrI. R.C.(MD)No.602 of 2011

25.06.2019

CS(30.08.2019) 3P 10C