

**BAIL SLIP**

Abbas, S/o. Basha, aged 29 years is released on bail vide this court order dated 10.08.2011 in MP(MD).2 of 2011 in CRL RC(MD) No.678 of 2011

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 28.06.2019****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****Cr1.R.C. (MD)No.678 of 2011**

Abbas

... Revision Petitioner/
Appellant/Accused

Vs.

State rep. by
The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.... Respondent/Respondent/
Complainant

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records from the Lower Courts and set aside the judgment of the Appellate Court passed by the learned Principal District Court, Ramanathapuram in C.A.No.40 of 2010 dated 01.12.2010 confirming the judgment of the learned District Munsif Cum Judicial Magistrate, Rameswaram, Ramanathapuram District in C.C.No.162 of 2007, dated 28.06.2010 by allowing this revision.

For Petitioner : Mr.R.R.Kannan

For Respondent : Mr.A.Robinson
Government Advocate (Cr1. Side)**O R D E R**

The petitioner was riding a two wheeler bearing Registration No.TN 23 Z 01 on 21.05.2007 at about 08.30 p.m. in Mandapam-Rameswaram NH road. When he was nearing Mandapam Railway station, the accident in question took place, in which a pedestrian namely., Palanisamy died. Crime No.92 of 2007 was registered on the file of Mandapam Police Station and final report was filed before the learned Judicial Magistrate, Rameswaram. The learned Judicial Magistrate took cognizance of the offence under Sections 337 (2 count), 304 (A) and 279 of I.P.C. in C.C.No.162 of 2007. The petitioner denied the charges and claimed to be tried.



2. In support of the prosecution case as many as 14 witnesses were examined. Ex.P.1 to Ex.P.10 were marked. On the side of the accused no evidence was adduced.

3. The learned Trial Magistrate by judgment dated 28.06.2010 found the petitioner guilty of the offence with which he was charged and sentenced to two months simple imprisonment for the offence under Section 279 of I.P.C. and levied with fine of Rs.700/-. He was sentenced to two months simple imprisonment for the offence under Section 337 (2 counts) of I.P.C. and levied with fine of Rs.500/-. He was sentenced to six months simple imprisonment for the offence under Section 304(A) of I.P.C. and levied with fine of Rs.2,000/-. The sentences were to run concurrently. Challenging the same, this petitioner filed C.A.No.40 of 2010 before the learned Principal District Judge, Ramanathapuram. The Appellate Court by judgment dated 01.12.2010 dismissed the appeal and confirmed the judgment of the Trial Court. Against the said judgement, this criminal revision case has been filed.

4. The learned counsel appearing for the revision petitioner submitted that on account of sudden crossing by the deceased/Palanisamy, the accident in question had occurred.

5. I went through the rough sketch/Ex.P.9. It is seen that the petitioner was going from west to east. The pedestrian was also going in the same direction. That is west to east. The accident occurred on northern side of the road. It is relevant to note that not only the deceased/Palanisamy but two others had sustained injuries. That belies the case of the petitioner. It is true that there was no light in that region. As admitted by P.W.3, the petitioner would not have seen the persons, who were walking in front and he had hit them behind. The eye witnesses have clearly spoken about the manner of the accident. The petitioner who was certainly the best person to give evidence with regard to the accident chose to avoid the witness box. Of course, I do not draw any adverse inference against the petitioner. But then, in the absence of counter evidence forth coming from the petitioner, this Court will have to go by the prosecution evidence. The place of occurrence and that the testimony of the injured witness has convincingly showed that the prosecution had proved its case beyond reasonable doubt. In any event both the Courts below concurrently found the petitioner guilty. I do not find any ground to interfere with the same.

6. The conviction imposed on the petitioner is confirmed. The petitioner was aged about 28 years when the accident took place. His wife was in the pillion. He is having two children. More than 12 years have lapsed. I am of the view that interest of justice would be served by reducing the imprisonment imposed on the petitioner under Section 304(A) of I.P.C. from six months simple imprisonment



to two months simple imprisonment. With this modification in the matter of sentence, this criminal revision case is partly allowed.

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// True Copy //

Sd/-

Assistant Registrar(AD-I)

Sub Assistant Registrar(CS)

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To:

- 1.The Principal District Judge, Ramanathapuram.
- 2.The District Munsif Cum Judicial Magistrate, Rameswaram.
- 3.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.
4. The Section Officer,Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1CC TO MR.RR.KANNAN, Advocate Sr. No. 72483

Cr1.R.C. (MD) No.678 of 2011
28.06.2019

SMV(CO)

TR (17.07.2019) 3P 7C