

**BAIL SLIP**

The Petitioner/Sole Accused namely Manohar aged 34 S/o. sebastin was directed to be released on bail as per order of this court dated 26.08.2011 in MP No.1 of 2011 in CrI.Rc(MD)No.716 of 2011 on the file of this court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	03.04.2019
Date of Judgment	02.07.2019

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

CrI.R.C(MD)No.716 of 2011

Manohar

: Petitioner/
Appellant/Accused

Vs.

The State rep. by the
Inspector of Police,
Thiruppalaikudi Police Station,
Ramanathapuram District.
(In Crime No.124 /2009

: Respondent/Respondent/
Complainant

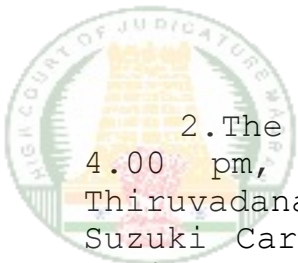
Prayer: Criminal Revision has been filed under Section 397 & 401 of Criminal Procedure Code, against the judgment, dated 11.08.2011 made in C.A.No.6 of 2011 on the file of the Principal District & Sessions Judge, Ramanathapuram, confirming the Judgment of the Chief Judicial Magistrate, Ramanathapuram, in C.C.No.24 of 2010, dated 14.03.2011.

For Revision Petitioner : Mr.J.Sulthan Basha, for
Ajmal Associates

For Respondent : Mr.A.Robinson
Government Advocate
(Criminal side)

J U D G M E N T

This Criminal Revision is directed against the judgment, dated 11.08.2011 made in C.A.No.6 of 2011 on the file of the Principal District & Sessions Judge, Ramanathapuram, confirming the Judgment of the Chief Judicial Magistrate, Ramanathapuram, in C.C.No.24 of 2010, dated 14.03.2011.



2.The case of the prosecution is that on 01.09.2009 at about 4.00 pm, when the deceased Kuncharammal was heading towards Thiruvadanai to R.S.Mangalam road, the accused drive a Maruthi Suzuki Car TN-10-W-0385 in a rash and negligent manner and dashed against her and thereby caused her death. The Inspector of Police attached to Thiruppalaikudi Police Station has filed a final report under Section 304(A) IPC against the accused examining the witnesses.

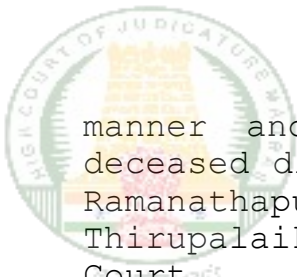
3.In the trial court, 9 witnesses were examined and 7 Exhibits were marked. When the accused was questioned about the incriminating circumstances, he denied the same. The trial court convicted the revision petitioner/accused and sentenced to undergo 6 months RI and to pay a fine of Rs.4,500/- towards fine, in default to undergo 3 months of SI. Aggrieved by the judgment passed by the trial court, the revision petitioner/accused filed an appeal in CrI.A.No.6 of 2011, which was heard by the Principal District and Sessions Judge, Ramanathapuram. The first appellate Court had also confirmed the order of the trial court. Hence, this criminal revision.

4.The learned counsel for the revision petitioner/accused submitted that the prosecution has failed to establish the ingredients required for all the offences with which he stood charged and convicted him for the said offences and none of the witnesses have spoken that the accused has driven the vehicle either rashly or negligently and there is no specific allegation of negligence as against the accused in driving the vehicle and the eye witnesses are interested witnesses and the prosecution has failed to prove the case beyond reasonable doubt and the accused is entitled to acquittal and prays that the criminal revision may be allowed.

5.On the other hand, the learned Government Advocate (Criminal side) appearing for the respondent/State submitted that the first appellate court appreciated the evidence in a proper manner and believed the evidence of the eye witnesses and having regard to the nature of the offences, convicted the revision petitioner for rash and negligent driving of the vehicle and passed proper sentence, which does not require any interference by this court and the accused is not entitled for acquittal and prays that the criminal revision may be dismissed.

6.Heard both sides and perused the materials available on record.

7.PW1 is the complainant and he gave Ex.P1 complaint. PW1 in his complaint and evidence stated that on 01.09.2009 when he was standing near Veterinary Hospital at R.S.Managalam and talking with Durai and Pandi, the deceased was going to fetch water and proceeded from north to south on the Ramanathapuram-Devakottai Bye-Pass road, at that time the accused drove his vehicle in a rash and negligent



manner and dashed against the deceased and due to which, the deceased died on the spot and the body of the deceased was taken to Ramanathapuram Government Hospital and he gave complaint to Thirupalaikudi Police Station. PW1 identified the accused in the Court.

8. PW2 and PW3 were cited as eye witnesses. PW2 and PW3 stated during their evidence that on 1.9.2009 at 4.00 pm, they and PW1 were talking near the Union Office and the deceased was going to fetch water and she proceeded on the Trichy-Rameswaram to Devakottai Bye-Pass road, at that time, the accused drove his vehicle in a rash and negligent manner and dashed against the deceased and then dashed against the Karuvelan tree and the deceased sustained injury. PW2 and PW3 also identified the accused.

9. PW5 is the daughter of the deceased. PW5 deposed that on 01.09.2009 at 4.00 pm, her mother was going to fetch water and proceeded from north to south and at that time, one Maruthi Car came in a rash and negligent manner and at first it dashed against one Calf and then dashed against her mother and then dashed against the karuvelan tree and after hearing the sound, she went and saw the occurrence. Hence, it reveals that PW5 has not seen the accident and she is only a hearsay witness. It was admitted by PW5 during his cross examination. Hence no importance can be given to the evidence of PW5.

10. PW1 to PW3 stated during their cross examination that at first, the accused dashed his vehicle against the Calf and then dashed against the deceased and afterwards dashed against the Karuvelan tree and in the place of occurrence, the Calf and the deceased died.

11. On careful perusal of the evidence of PW1 to PW3, it reveals that the accused drove his vehicle in rash and negligent manner. In this case, the Motor Vehicle Inspector was examined as PW4. PW4 categorically deposed that there was no mechanical defect in the offending vehicle and the accident was not occurred due to the mechanical defect.

12. In this case, Rough Sketch was marked as Ex.P6. On perusal of Ex.P6, it reveals that the accident occurred in the mud road and the offending vehicle was dragging from east to west to some extent and hence, it shows the negligent on the part of the accused.

13. On careful perusal of the evidence of witnesses and the documents, it reveals that the accused drove the offending vehicle in a rash and negligent manner and at first, he dashed against the Calf and then dashed against the deceased and afterwards, he dashed against the offending vehicle and dashed against the Karuvelan tree. Hence, the revision petitioner/accused was found guilty under Section 304(A) IPC.



14. For all the reasons stated above, this court is of the considered view that after careful analysis, both the courts below have concurrently given findings, which does not require any interference by this court.

15. In the result, the Criminal Revision is **partly allowed**. The punishment imposed on the revision petitioner under Section 304(A) IPC is modified and the revision petitioner is directed to undergo 3 **months of RI** for the said offence. The fine amount imposed for the said offence by the trial court is confirmed. The period of sentence, if any, already undergone by the revision petitioner is set off under Section 428 of Cr.P.C.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate, Ramanathapuram.
2. The Judicial Magistrate, Ramanathapuram.
Thro The Chief Judicial Magistrate, Ramanathapuram.
3. The Inspector of Police,
Thiruppalaikudi Police Station,
Ramanathapuram District.
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s. AJMAL ASSOCIATES, Advocate (SR-73109[F] dated 03/07/2019)

Cr1.RC (MD) No. 716 of 2011
02.07.2019

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VB (24.10.2019) 4P 6C