

**Bail Slip**

Jeyabalan, S/o.Selvaraj, male, aged about 58/2010 years (Sole Accused) is released on bail vide Court Order dated 06.09.2011 made in MP(MD) 1 of 2011 in CrI.RC(MD)No.738 of 2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 28.06.2019****CORAM:****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****CrI.R.C(MD)No.738 of 2011**

Jeyabalan

... Petitioner

Vs

State through
Inspector of Police,
Vaiyampatti Police Station,
Trichy.
(In Crime No.89/08)

... Respondent

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for records in C.A.No.149/2010, dated 29.07.2011 on the file of the Additional District Sessions Judge, Fast Track Court No.2, Trichy which is confirmed Judgement passed in C.C.No.45/2010, dated 08.11.2010 on the file of the learned Judicial Magistrate, Manapparai, Trichy, set aside the same and allow this revision.

For Petitioners

: Mr.M.Subash Babu

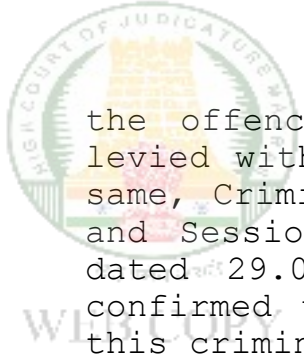
For Respondent

: Mr.A.Robinson

Government Advocate (CrI.side)

ORDER

The petitioner was driving the Corporation Bus bearing Registration No.TN 45 N 2260 on 30.04.2008 at about 08.15 p.m., in Dindigul-Trichy Main Road. The bus and the two wheeler were involved in the accident and the two wheeler rider died as a result. In this regard, Crime No.89 of 2008 was registered on the file of the Inspector of Police, Vaiyampatti Police Station at the instance of P.W.1. Investigation was undertaken and final report was filed before the Judicial Magistrate, Manapparai, Trichy. Cognizance of the offences under Sections 304A of IPC and 279 of IPC was taken in C.C.No.45 of 2010. The petitioner denied the charges imposed on him and claimed to be tried. The prosecution examined as many as 13 witnesses. Ex.P1 to Ex.P8 were marked. On the side of the accused, no evidence was adduced. The learned trial Magistrate, by Judgment dated 08.11.2010 concluded that the petitioner was guilty of the offence under Section 304 (A) of IPC and also Section 297 of IPC and sentenced him to six months rigorous imprisonment for the offence under Section 304(A) of IPC and one month rigorous imprisonment for



the offence under Section 279 of IPC. The petitioner was also levied with a total amount of Rs.2,500/- as fine. Questioning the same, Criminal Appeal No.149 of 2010 before the Additional District and Sessions Judge, Fast Track Court No.2, Trichy. By Judgment dated 29.07.2011, the Appellate Court dismissed the appeal and confirmed the Judgment of the trial Court. Challenging the same, this criminal revision case has been filed.

2. Heard the learned counsel on either side.

3. After carefully considering the rival contentions and the materials on record, this Court is of the view that the guilt of the petitioner has been established beyond reasonable doubt. The petitioner was driving the Public Transport Bust from west to east in Dindigul-Trichy Main Road. The two wheeler ridden by the deceased was coming from the opposite direction that is east to west. The accident had taken place on the southern side. It shows that the two wheeler was going on the correct side and it was the petitioner's bus which had hit him headlong on the wrong side of the road. Ex.P6 is the Rough Sketch. From the occurrence spot as noted in the Rough Sketch, one can come to the conclusion that but for the rash and negligent driving of the petitioner, the accident would not have occurred. The preparation of the Rough Sketch has not been challenged seriously by the petitioner herein. The petitioner did not enter the witness box to present his version. The petitioner has not come with any explanation during his examination under Section 313 of Cr.P.C. Both the Courts below have concurrently found the petitioner guilty of the offence in question. Therefore, I see no ground to interfere with the same, when the Judgments of the Courts below are well reasoned and well founded. Now comes the question of sentence. It is seen that the petitioner is now aged about 67 years old. The occurrence had taken place some more than 11 years ago. Therefore, I am of the view that interest of justice will be served by reducing the sentence of six months rigorous imprisonment to three months simple imprisonment. The sentence under Section 279 of IPC is also converted from one months rigorous imprisonment to one month simple imprisonment. Both the sentences will run concurrently. In all other aspects, the Judgments of the Courts below are sustained.

4. With this modification in the matter of sentence, this criminal revision case is partly allowed. The learned trial Magistrate shall take steps to enforce this order.

Sd/-

Assistant Registrar

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To

1.The Additional District Sessions Judge,
Fast Track Court No.2, Trichy.

2.The Judicial Magistrate, Manapparai, Trichy.

3.The Chief Judicial Magistrate, Trichy.

4.The Inspector of Police,
Vaiyampatti Police Station, Trichy.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to: The Section Officer,
Criminal Section
Madurai Bench of Madras High Court,
Madurai.(2)

+1 CC to Mr.M.SUBASH BABU, Advocate SR-72554.

Cr1.R.C(MD)No.738 of 2011
28.06.2019

CS(03.09.2019) 3P 9C