



Bail Slip

The Appellant/Accused Viz., Velkumar S/o.Subbiah was enlarged on bail by the order of this Court in MP(MD)No.3/2011 in Crl.R.C(MD) No.879 of 2011 dated 02.11.2011.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C(MD)No.879 of 2011

Velkumar

... Petitioner

Vs

State represented by the
Inspector of Police,
Sivanthipatti Police Station,
Tirunelveli District.
(Crime No.68/2006)

... Respondent

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, against the Judgment dated 05.05.2011 in Crl.A.No.1 of 2011 by the learned Additional Sessions Judge (FTC-I), Tirunelveli, confirming the conviction and sentence of imprisonment of two months S.I. for the offence under Section 279 and 338 of IPC; 1 month S.I for the offence under Section 337 of IPC and six months simple imprisonment and pay a fine of Rs.1000/- in default to undergo two months simple imprisonment for the offence under Section 304(A) IPC (2 counts) and all the sentences to run concurrently passed by the learned Judicial Magistrate No.III, Tirunelveli in C.C.No.31 of 2007, dated 20.12.2010 .

For Petitioner : Mr.S.Mahendrapathy

For Respondent : Mrs.S.Bharathi
Government Advocate (Crl.side)

ORDER

The petitioner was found guilty of the offences under Sections 279 ,337, 338 and 304(A) of IPC (two counts) by the learned Judicial Magistrate No.III, Tirunelveli and sentenced in the following manner:-

Accused	Penal Provisions	Punishment
Sole Accused	279 IPC	To undergo simple imprisonment for two months.

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	337 IPC	To undergo simple imprisonment for one month
	338 IPC	To undergo simple imprisonment for two months
	304 (A)IPC (2 counts)	To undergo simple imprisonment for six months with fine of Rs.1,000/-,(for each counts) in default to undergo two months simple imprisonment.

The Judgment passed by the learned trial Magistrate was confirmed as such by the Appellate Court in Criminal Appeal No.1 of 2011, vide Judgment dated 05.05.2011. This is under challenge in this criminal revision case.

2.When the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that none of the eye witnesses identified the petitioner as the one who drove the offending vehicle at the relevant point of time. He also pointed out that the petitioner had taken the injured children as well as the deceased children to the Hospital by taking the assistance of the prosecution witnesses.

3. Per contra, the learned Government Advocate(Crl.side) submitted that Judgments of the Courts below do not warrant any interference.

4.I carefully considered the rival contentions. The accident in question occurred on 08.10.2006 at about 11.30 a.m. The Van bearing Registration No.TN 69 5569 was plying in Seithunganallur-Tirunelveli Main Road, had caused the accident in question. Two children died and two suffered injuries. Crime No.68 of 2006 was registered on the file of the Inspector of Police, Sivanthipatti Police Station. Investigation was undertaken and final report was filed and cognizance in respect of the afore mentioned offence was taken by the Judicial Magistrate. The petitioner was charged with the offences in question. The petitioner denied the charges and claimed to be tried. The prosecution in support of its case examined as many as 13 witnesses and marked Ex.P1 to Ex.P17. M.O.1 was also marked. On the side of the accused, no evidence was adduced. The learned trial Magistrate, by Judgment dated 20.12.2010, found the



petitioner guilty of the offences with which he was charged. As already pointed out, the Appellate Court also confirmed the same. Now the question is whether the Judgments of the Courts below deserve to be reversed or not.

5. I am of the view that there is no merit in this revision case. This is because, P.W.9 who was one of the witnesses and who was having a shop in the vicinity, had categorically denied the suggestion put to him that the accused did not drive the offending vehicle. The accused did not enter the witness box and it was never his claim that he did not drive the vehicle in question. The prosecution had marked Ex.P14-Rough Sketch. It is seen there from that the offending vehicle was going from east to west. The occurrence had taken place on the left side of the road. In the occurrence spot, the children were playing. It is obvious that only on account of the rash and negligent driving by the petitioner, the accident had taken place. It is not as if the children were playing in the middle of the road. In fact, the occurrence spot is at the extreme left end on the southern side. Therefore, the Courts below have rightly fastened the penal liability on the petitioner and convicted and sentenced him. I find no ground to interfere. If the petitioner has spent some time in prison, the same will be set off under Section 428 of Cr.P.C. This criminal revision case stands dismissed. The trial Magistrate shall take steps to enforce this order.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar (CS)

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To

1. The Additional Sessions Judge (FTC-I), Tirunelveli.

2. The Judicial Magistrate No.III, Tirunelveli.

3. Do Thro'

The Chief Judicial Magistrate, Tirunelveli

4. The Superintendent , Central Prison, Palayamkottai

5. The Inspector of Police,
Sivanthipatti Police Station,
Tirunelveli District.



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

copy to
The Section Officer,
Criminal Records Section
Madurai Bench of Madras High Court,
Madurai-2 copies

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01.07.2019

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