



BAIL SLIP

The Appellant / Accused namely Mariya Anthonysamy, S/o. Arockiasamy was directed to be released on bail as per order of this Court dated 28.06.2012 and made in M.P(MD)No.1 of 2011 and made in Crl RC (MD)No.935 of 2011 on the file of this Court.

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.935 of 2011

Mariya Anthonysamy ... Petitioner/Appellant/Accused

Vs

The State through,
Sub Inspector of Police,
Thiruverumbur Police Station. ... Respondent/Respondent/Complainant

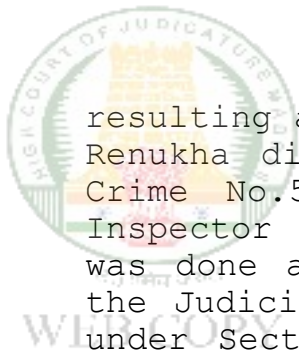
PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the Judgment passed in C.C.No.454 of 2008 passed by the learned Judicial Magistrate No.VI, Trichy, dated 05.08.2010 and confirmation Judgment of the learned Additional District Judge, Thiruchirappalli passed in C.A.No.100 of 2010 dated 29.07.2011 and set the same.

For Petitioner : Mr.S.Mahendrapathy

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

ORDER

The petitioner was driving the minidor van bearing Registration No.TN 45 AH 0837 on 19.08.2008 at about 3.30 p.m., in Vengoor Road near Trichy. The petitioner had hit the two wheeler bearing Registration No.TN 55 B 7555 ridden by Karunanithi-P.W.3. The deceased Renukha was sitting in the pillion. There was a collision between the minidor van and the two wheeler. In the

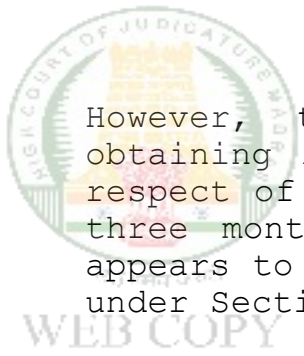


resulting accident, the said pillion rider Renukha died. Of-course, Renukha did not die on the spot but died later. In this regard, Crime No.552 of 2008 was registered on the file of the Sub Inspector of Police, Thiruverumbur Police Station. Investigation was done and final report was filed against the petitioner before the Judicial Magistrate No.VI, Trichy. Cognizance of the offences under Sections 279, 338 and 304(A) of IPC was taken on the spot. The petitioner denied the charges and claimed to be tried. In support of the prosecution case, as many as 12 witnesses were examined. Ex.P.1 to Ex.P9 were marked. On the side of the accused, no evidence was adduced. The learned trial Magistrate, after a careful consideration of the evidence on records, came to the conclusion that the charges against the petitioner stood established and sentenced him as follows:-

Accused	Penal Provisions	Punishment
Sole Accused	279 IPC	To undergo simple imprisonment for one month.
	338 IPC	To undergo simple imprisonment for two months
	304 (A) IPC	To undergo simple imprisonment for three months

The same was confirmed by the Appellate Court.

2. This Court perused Ex.P4-Rough Sketch. It is seen that the petitioner was going from west to east. The two wheeler was coming from the opposite direction that is east to west. The occurrence had taken place on the extreme southern end. That clearly indicates that the two wheeler was coming in the correct direction and it was the petitioner who had hit the two wheeler headlong. A suggestion put by the petitioner to the Investigating Officer is that there was a pit in the middle of the road and in order to avoid the same, the petitioner had taken a turn. But then, that could not have caused the petitioner to go to the other end of the road and hit the two wheeler coming from the opposite direction in a headlong manner. It clearly shows that only the negligence on the part of the petitioner caused to the accident. P.W.3-Karunanithi, rider of the two wheeler had spoken in support of the prosecution case. Of-course, P.W.2 was found to be a set up witness. The case of the prosecution even otherwise had been established beyond reasonable doubt. When both the Courts below concurrently found the petitioner guilty of the offences, with which, he was charged, in exercise of my revisional jurisdiction, I do not deem it fit and appropriate to interfere with the same.



However, taking note of the special facts and circumstances obtaining in this case, the sentence imposed on the petitioner in respect of the offence under Section 304(A) of IPC is modified from three months to two months simple imprisonment. The petitioner appears to have spent some time in Prison, the same will be set off under Section 428 of Cr.P.C.

3. With this modification in the matter of sentence, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Additional District Judge, Thiruchirappalli.
2. The Principal District Judge, Trichy.
3. The Judicial Magistrate No.VI, Trichy.
4. The Chief Judicial Magistrate, Trichy.
5. The Sub Inspector of Police,
Thiruverumbur Police Station.
6. The Superintendent,
Central Prison, Trichy.
7. 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 COPIES)

CrI.R.C (MD) No.935 of 2011

KK/SAR/06.02.2020/3P-10C/