



Bail Slip

The Appellant / Sole Accused Mahalingam, S/o. Ramar was released on bail as per the order of this Court on 23.12.2011 in MP (MD)No.1/2011 in CrI.R.C(MD)No.975 of 2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrI.R.C. (MD)No.975 of 2011

Mahalingam

.. Petitioner/Appellant/Sole Accused
Vs.

State through,
The Inspector of Police,
Mamsapuram Police Station,
Virudhunagar District.
(Crime No.35 of 2006)

.. Respondent/Respondent/Complainant

Prayer : This Criminal Revision petition is filed under Sections 397 and 401 of Cr.P.C., against the Judgment and Conviction passed by the learned Judicial Magistrate No.2, Srivilliputhur, Virudhunagar District in C.C.No.95 of 2006, dated 08.12.2006 for the offence under Section 304(A) of I.P.C., and sentenced him to undergo two years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo six months Simple Imprisonment and acquitted for the offence under Section 134 r/w 187 of the Motor Vehicles Act, 1988 and the same was modified by the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur in C.A.No.4 of 2007 dated 12.10.2011 with regard to the offence under Section 304(A) of I.P.C. to undergo 1 year Simple Imprisonment awarded instead of two years and confirmed the fine amount and upheld the acquittal for the offence under Section 134 r/w 187 of Motor Vehicles Act, 1988.

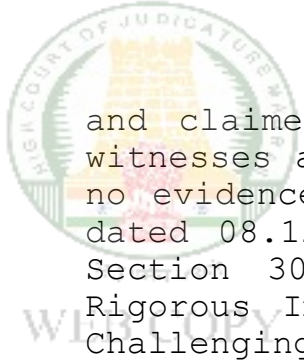
For Petitioner : Mr.S.Balakarthick

For Respondent : Mr.A.Robinson,

Government Advocate(CrI.Side).

ORDER

The petitioner was driving a Lancer car bearing registration No.TN 67-F-9 on 01.02.2006 at about 5.00 p.m. in Rajapalayam-Srivilliputhur road. The petitioner was going from west to east, a pedestrian by name Uppiliselvam was also walking in the same direction from west to east on the northern side of the road. In other words, the pedestrian was also walking on the same side of the road in which the petitioner was driving his car. The petitioner's vehicle hit the deceased Uppiliselvam from behind and causing him serious injuries. He died after an hour. In this regard, Crime No.35 of 2006 was registered on the file of the Mamsapuram police station. Investigation was undertaken and final report came to be filed against the petitioner. The learned Judicial Magistrate No.II, Srivilliputhur, took cognizance of the offence under Section 304(A) of I.P.C. in C.C.No.95 of 2006. The petitioner denied the charges



and claimed to be tried. The prosecution examined as many as 13 witnesses and marked Ex.P.1 to Ex.P.8. On the side of the accused, no evidence was adduced. The learned trial Magistrate by Judgment dated 08.12.2006 found the petitioner guilty of the offence under Section 304(A) of I.P.C. and sentenced him to undergo 2 years Rigorous Imprisonment and also levied with a fine of Rs.1,000/-. Challenging the same, the Revision petitioner filed C.A.No.04 of 2007 before the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur. The learned Judge by Judgment dated 12.10.2011 confirmed the conviction and reduced the term of imprisonment to 1 year Simple Imprisonment. Challenging the same, this Criminal Revision came to be filed.

2. Heard the learned counsel on either side.

3. The petitioner's counsel reiterated the contentions set out in the memorandum of grounds and wanted this Court to reverse the Judgments of the Courts below.

4. Per contra, the learned Government Advocate wanted this Court to sustain the impugned Judgments.

5. I carefully considered the rival contentions. The accident was witnessed by P.W.1 Nallasivam who lodged Ex.P.1 complaint. He had spoken in support of the prosecution case. Ex.P.7 is the Rough Sketch. A mere look at the same would clearly indicate that the accident had taken place on the northern side of the road. In this case, the petitioner was going from west to east while the pedestrian was also going in the same direction. The pedestrian cannot be said to have contributed to the occurrence in any manner. The Courts below have concurrently found that the petitioner's rash driving had caused the accident in question leading to the death of Uppiliselvam. No ground has been made out to re-appreciate the evidence. However, taking note of the lapse of time and the fact that the petitioner is having two children, I am of the view that the sentence of imprisonment can be reduced from 1 year Simple Imprisonment to 6 months Simple Imprisonment.

6. With this modification in the matter of sentence, this Criminal Revision stands partly allowed. The learned trial Magistrate is directed to secure the petitioner to undergo the remaining period of sentence. The bail bond, if any, executed by him shall stand cancelled. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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To

1. The Principal Sessions Judge,
Virudhunagar District at Srivilliputhur.
2. The Judicial Magistrate No.II
Srivilliputhur, Virudhunagar District.
3. -do-thro' 2 & 3 The Chief Judicial Magistrate,
Virudhunagar at Srivilliputhur.
4. The Superintendent of Central Prison,
Madurai
5. The Inspector of Police,
Mamsapuram Police Station,
Virudhunagar District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

copy to:

The Section Officer, (2 copies)
Criminal Records Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.BALAKARTHICK, Advocate (SR-72623[F] dated 02/07/2019

Crl. R.C. (MD) No.975 of 2011
01.07.2019

SMA/28/01/2020/3P/10C