

**Bail Slip**

Sivaraj S/o Alagarsamy, petitioner was released on bail as per the order of this Court dated 11.01.2013 mad in MP(MD)No.2 of 2013 in CRL RC(MD)No.20 of 2013.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCRL RC(MD)No.20 of 2013

Sivaraj ... Petitioner /Appellant/Sole Accused

Vs.

The State rep.by
The Inspector of Police,
Manaparai Police Station,
Trichy District.

... Respondent / Respondent /
Complainant

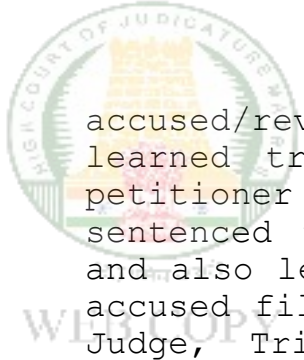
Prayer : This Criminal Revision Case is filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 13.07.2012 in C.A No.77 of 2011 on the file of the II Additional District Judge at Trichirappalli thereby confirming the judgment dated 14.07.2011 passed in C.C No.47 of 2011 on the file of the Judicial Magistrate, Manaparai, Trichy District.

For Petitioner	:	Mr.B.Prahalad Ravi
For Respondent	:	Mr.A.Robinson, Government Advocate (crl.side)

ORDER

The revision petitioner Sivaraj was driving a private bus bearing Registration No.TN 45 AK 0067 on 30.07.2010 at about 07.30 A.M in Manaparai - Trichy main road. When the bus was crossing Kathikaranpatti junction, the bus hit the deceased Mookayi causing her death. In this regard, Crime No.345 of 2010 was registered on the file of the Manaparai Police Station for the offences under Sections 279 and 304(A) IPC. Investigation was undertaken and final report was filed before the Judicial Magistrate, Manaparai.

2.The learned trial court took cognizance of the offence under Sections 279 and 304 (A) IPC in C.C No.47 of 2011. The accused denied the charges framed against him and claimed to be tried. In support of the prosecution case, as many as 10 witnesses were examined and Exs.P1 to P11 were marked. On the side of the



accused/revision petitioner herein no evidence was adduced. The learned trial magistrate by judgment dated 14.07.2011 found the petitioner guilty of the offence under Section 304 (A) IPC and sentenced the accused to undergo six months rigorous imprisonment and also levied with fine of Rs.1000/-. Aggrieved by the same, the accused filed Crl.A No.77 of 2012 before the II Additional District Judge, Trichirappalli. The appellate court by judgment dated 13.07.2012 confirmed the conviction and sentence passed by the trial magistrate. Challenging the same, this criminal revision case has been filed.

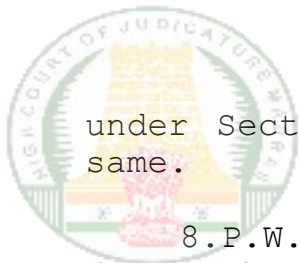
3. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) for the State.

4. It is not in dispute that the revision petitioner was driving the bus in question. The accident had taken place on 30.07.2010 at about 7.30 A.M in Manaparai-Trichy National Highway. During the relevant time, the road laying maintenance works were going on. The revision petitioner's bus was coming from west to east near Kathikaranpatti junction point. The highway takes a short curve and turn. According to the prosecution, the deceased Mookayi was a coolie worker and she was to go to Trichy for to do some daily wages works. The bus stop for Trichy was on the northern side of the road. Therefore, Mookayi was crossing the highway from south to north when the accident took place.

5. The learned counsel for the petitioner submitted that the prosecution case that Mookayi was waiting in the bus stop is false and only when she was crossing the highways the accident took place. The learned counsel for the petitioner is right in his contention that Mookayi was attempting to cross the road when the accident took place. But then, the accident could have been easily avoided if the petitioner had not driven the vehicle in a rash and negligent manner. The fact that the vehicle was driven in a rash and negligent manner as evident from the tyre marks left on the road to a distance almost 20 feet.

6. While P.W.1 would claim that the tyre marks could be seen to a distance of 30 feet, P.W.2 would say that tyre marks could be seen to a extent of 10 feet. In the rough sketch, the tyre marks have been mentioned as stretching over to 20 feet.

7. This single circumstance is sufficient to indicate that the petitioner herein had driven the vehicle in a rash and negligent manner and had applied sudden brake and that is how the tyre marks came to be imprinted on the road. It was a highway and half of the road was already under maintenance works. Thus, the width of the road had already narrowed down. Therefore, the revision petitioner ought to have shown utmost care while negotiating the curve. These aspects clearly indicate that the revision petitioner is guilty of rash and negligent driving. The courts below rightly came to the conclusion that the petitioner/accused was guilty of the offence



under Section 304(A).
same.

I find no ground to interfere with the

8.P.W.1 is an eyewitness. He is not a relative of the deceased. It was he who admitted the deceased in the hospital. He had categorically spoken about the rash and negligent driving of the revision petitioner/accused. Therefore, I do not want to interfere with the concurrent finding arrived at by the courts below. But then, taking note of the mitigating circumstances, I am inclined to reduce the sentence imposed on the petitioner from six months rigorous imprisonment to three months simple imprisonment. In other words, the conviction and fine imposed on the petitioner stand confirmed and the sentence of imprisonment alone is reduced to three months simple imprisonment. The period already undergone by the accused/revision petitioner, if any, the same shall be set off in terms of Section 428 of Cr.PC. The learned Trial Magistrate shall take steps to enforce this order and commit the accused in prison to serve three months simple imprisonment.

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

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The The Inspector of Police, Manaparai Police Station,
Trichy District.

2. II Additional District Judge, Trichirappalli

3. The Judicial Magistrate, Manaparai, Trichy District.

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

5. The Section Officer, Criminal Section (2 Copies),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.B.PRAHALAD RAVI, Advocate (SR-72478[F] dated
01/07/2019)

CRL RC(MD)No.20 of 2013
28.06.2019