

Bail Slip

The Appellant/Accused Karthikeyan, was released on bail (Accused not in Jail) granted dated 06.07.2015 made in MP(MD). No.1/2015 in Crl.R.C. (MD).No.247/2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C. (MD)No.247 of 2015

Karthikeyan ... Petitioner / Appellant / Accused

-vs-

State

The Inspector of Police,
Puthiamputhur Police Station,
Tuticorin District

... Respondent / Respondent /Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records and set aside the order passed in C.A.No.2 of 2015, dated 27.04.2015, on the file of the learned First Additional District and Sessions Judge, Tuticorin confirming the order made in C.C.No.36 of 2013, dated 12.01.2015, on the file of the Chief Judicial Magistrate, Tuticorin.

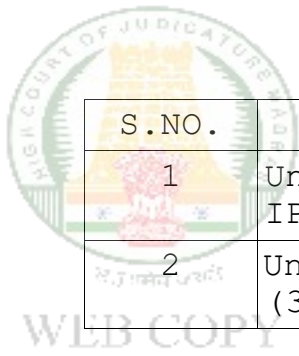
For Petitioners : Mr.V.Kannan

For Respondent : Ms.S.Bharathi,
Govt.Advocate (crl.side)

ORDER

This Revision has been filed praying to set aside the order passed in C.A.No.2 of 2015, dated 27.04.2015, by learned First Additional District and Sessions Judge, Tuticorin, confirming the order made in C.C.No.36 of 2013, dated 12.01.2015, on the file of the Chief Judicial Magistrate, Tuticorin.

2. The accused, after trial, convicted and sentenced as follows:-



S.NO.	OFFENCE	PUNISHMENT
1	Under Section 304(A) IPC.	2 years Rigorous Imprisonment
2	Under Section 337 IPC (3 counts)	Each 1 month, Rigorous Imprisonment.

3. The sentences were ordered to run concurrently and set-off was provided u/s.428 Cr.P.C.

4. The case of the prosecution, in brief, is as follows:-

(i) On 25.10.2010, at about 2.30 p.m., P.W.1, other injured and the deceased were proceeding to the Temple from Trichy, as pedestrians, and when they reached Ottapidaram to Puthiyampathur, near Chellamman Koil Road, the petitioner / accused drove the vehicle viz., 'Mahindra Bolero Jeep', bearing Registration No.KL-31-9500, came from south to north, in a rash and negligent manner, without following Road Traffic Rules, dashed against the deceased Radhakrishnan and others, who were walking from east to west, keeping extreme left side of the road.

(ii) Due to the impact of the accident, the deceased Radhakrishnan sustained grievous injuries all over his body. P.W.1 to P.W.3, sustained multiple severe injuries. Immediately, P.W.1 to P.W.3 taken to a nearby Government Hospital, however, the deceased Radhakrishnan, taken to a private hospital, for treatment, where he died during treatment.

5. P.W.1, on the same day, ie., on 25.10.2010, lodged Ex.P1 / Complaint to P.W.10 / Sub-Inspector of Police, who registered Ex.P8 /FIR and prepared Ex.P2 / Observation Mahazar, and went to the scene of occurrence, prepared Ex.P9 / Rough Sketch; Ex.P3 is the Motor Vehicle Report; Ex.P4 is the Postmortem Report; Exs.P5 to P7 are the wound certificate; Ex.10 is the Medical History; Ex.P11 is the alteration report; Ex.P12 is the inquest report. P.W.10 / Sub-Inspector of Police, forwarded the investigation to P.W.12 / Inspector of Police, who took up the investigation, leading to filing of the charge sheet against the accused for the offences as shown above.

6. On the appearance of the accused/petitioner, the provisions of Section 207 Cr.P.C. was complied with and the case was committed for trial in C.C.No.36 of 2015. After trial, the trial court found the petitioner/accused guilty of the offences and sentenced him as above. Against which, the petitioner/accused preferred appeal before the First Additional District and Sessions Judge, Tuticorin, in C.A.No.2 of 2015. The lower appellate Court, on the basis of the materials available before it, concurred with the view taken by the trial court to convict the accused/petitioner herein and, accordingly, affirmed the conviction and sentence.



Aggrieved by the said conviction and sentence, the present Revision has been preferred.

7. Mr.V.Kannan, the learned counsel appearing for the petitioner submitted that the witnesses of P.W.1 to P.W.3 examined by the prosecution do not corroborate with the evidence of P.W.5, who is the eyewitness to the occurrence. It is the further submission of the learned counsel that the petitioner drove the vehicle in a cautious manner, at that time, the deceased, without any signal, tried to cross the road, thereby, he sustained head injury. In order to save the deceased, the petitioner, immediately stopped the vehicle, however, the vehicle dashed against P.W.1 to P.W.3 and the deceased. It is his further contention that the negligence on the part of the deceased has been clearly established before the court below, however, the court below, without considering the same, convicted the petitioner / accused, which is not sustainable one. Hence, the order of the Courts below is perverse and accordingly, he prayed for allowing the Revision.

8. Per contra, Ms.S.Bharathi, the learned Government Advocate (crl.side) appearing for the State submitted that in the present case, in order to prove the prosecution case, the injured were examined as P.Ws.1 to 3; P.W.4, who is available in the scene of occurrence, who called the ambulance, for providing better treatment to the injured person as well as the deceased person; P.W.5 is the eyewitness to the occurrence; P.W.6 is the mahazar witness; P.W.7 / Motor Vehicle Inspector, who certified the damage of the vehicle; P.W.8, P.W.9 and P.W.11 are the Doctors, who given treatment to the deceased, as well as the injured persons; P.W.10 is the Sub-Inspector of Police and P.W.12 is the Inspector of Police, were examined and their evidences are clearly corroborated with each other. Since all those prosecution witnesses corroborated with each other, the prosecution proved the guilt beyond reasonable doubt and the trial Court as well the lower appellate Court concurrently held against the accused person and there is no perversity in the order passed by the Court below, which need not be interfered with.

9. The learned Government Advocate, in support of her contention, relied on the recent decision of the Hon'ble Apex Court in **Thangasamy Vs. The State of Tamil Nadu** reported in **2019 SCC On Line SC 239**, wherein it has been held as follows:-

"15. It shall also be apposite to recapitulate the observations of this Court in the case of Dalbir Singh (supra), guarding against leniency in relation to the drivers found guilty of rash driving, in the following passages:

"1. When automobiles have become death traps any leniency shown to drivers who are found guilty of rash driving would be at the risk



of further escalation of road accidents. All those who are manning the steering of automobiles, particularly professional drivers, must be kept under constant reminders of their duty to adopt utmost care and also of the consequences befalling them in cases of dereliction. One of the most effective ways of keeping such drivers under mental vigil is to maintain a deterrent element in sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and frolic."

10. Adding further, the learned Government Advocate (crl.side) would contend that while considering the quantum of sentence to be imposed for the offence of causing death or injury by rash and negligent driving of automobiles, one of the prime considerations should be deterrence. The persons driving motor vehicles cannot and should not take a chance thinking that even if he is convicted he would be dealt with leniently by the court. Hence, the learned Government Advocate prayed for dismissal of the Revision.

11. I have heard the learned counsels appearing on either side and perused the materials available on record.

12. On a perusal of the entire materials, this Court does not find any infirmity in the order passed by the Court below. Taking into consideration of the facts and circumstances of the case, this Court is of the view that undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law. The Court must not only keep in view the rights of the victim of the crime, but also the society at large, while considering the imposition of appropriate sentence. By rash and negligent driving of the accused, one person died and three other sustained injuries, for which, the Court below awarded only a minimum sentence, in the considered view of this Court, hence, this Court is not inclined to interfere with the order passed by the Court below.

13. In fine, this Criminal Revision stands dismissed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The I Additional District and Sessions Judge,
Tuticorin

2.The Principal Sessions Judge, Tuticorin.

3.The Chief Judicial Magistrate,
Tuticorin.

4.The Inspector of Police,
Puthiamputhur Police Station,
Tuticorin District

5.The Superintendent, Central Prison, Palayamkottai.

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

+1 CC to M/s.V.KANNAN, Advocate (SR-11349[F] dated 12/03/2020)

CRL.R.C. (MD) No.247 of 2015
11.03.2020

JMN(23.03.2020) 5P : 8C