



Bail Slip

The Appellant/Accused Maharaja, S/o.Marimuthu, was released on bail (Accused not in jail) vide order dated 08.02.2016 made in MP(MD)No.1 of 2015 in Crl.RC(MD)No.605 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05.02.2020

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.RC(MD)No.605 of 2015

Maharaja : Petitioner/Appellant/Accused

Vs.

State represented by
The Inspector of Police,
Allinagaram Police Station,
Theni (Crime No.128 of 2003)
Theni District.

: Respondent/Respondent/Complainant

Prayer: Criminal Revision filed under Section 397 and 401 of the Code of the Criminal Procedure against the order of the Additional District and Sessions Judge, Theni @ Periyakulam, dated 31.07.2015 in C.A.No.11 of 2014, confirming the judgment made in C.C.No.280 of 2006 passed by the Judicial Magistrate, Theni, dated 23.01.2014.

For Petitioner	: Mr.B.Rajesh Saravanan
For Respondent	: Mr.APG Ohm Chairma Prabhu Government Advocate (Criminal side)

J U D G M E N T

This Criminal Revision is filed against the order of the Additional District and Sessions Judge, Theni @ Periyakulam, dated 31.07.2015 in C.A.No.11 of 2014, confirming the judgment passed in C.C.No.280 of 2006 by the Judicial Magistrate, Theni, dated 23.01.2014.

2.According to the prosecution, on 18.06.2013 at 16.30 hours on Theni-Periyakulam road near the Lion Statue branch, when the witness Moorthy travelling his motor cycle TN-30-Z-1368 along with the deceased Gopal, TNSTC Town Bus TN-57-N-1006 was hold for dropping the passenger and at that time, the accused drove the bus TN-57-N-1016 in a rash and negligent manner and hit against the bus TN-57-N-1016 as well as against the the motor cycle TN-30-Z-1368. Due to which, the witness Moorthy sustained grievous injuries and the pillion rider of the motor cycle died on the spot. The



Inspector of Police attached to Allinagaram Police Station has filed a final report against the accused examining the witnesses.

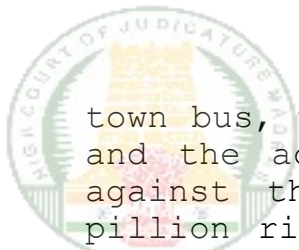
3.The trial court, after appreciation of the entire materials available on record, convicted the petitioner/accused for the offence under sections 279, 338 and 304(A) IPC and sentenced him to pay a fine of Rs.750/-, in default to undergo one month rigorous imprisonment for the offence under section 279 IPC; a fine of Rs.750/-, in default to undergo one month rigorous imprisonment for the offence under section 338 IPC and for the offence under section 304(A) IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.500/-, in default to undergo one month rigorous imprisonment. Challenging the same, the petitioner preferred appeal. The first appellate court had also confirmed the findings of the trial court. Against which, the petitioner is before this court.

4.Heard both sides and perused the materials available on record.

5.The contention raised on the side of the petitioner/accused is that the vehicle and bike proceeded in front of the vehicle of the petitioner, which he drove had stopped suddenly without any signal or warning and thereby caused accident and the petitioner/accused tried all his best to avoid the accident and the alleged eye witnesses are interested witnesses and they had no trust-worthy and the petitioner/accused has not driven his vehicle in a rash and negligent manner and the available evidence did not disclose any offence against the petitioner and the accident occurred only due to the driver of the bus and the bike, which were proceeded in front of the vehicle of the petitioner and prays that the criminal revision has to be allowed.

6.PW1 is the complainant and he gave Ex.P1 complaint. PW1 in his complaint and evidence stated that on 18.06.2003 at 4.30 pm, he proceeded towards Periyakulam in a two wheeler along with the deceased Gopal and when he reached on Theni-Periyakulam road near Lion Statue branch turning, at the time a town bus which was proceeded before his vehicle was stopped, at the time, the accused drove his vehicle in a rash and negligent manner and dashed against his vehicle and then dashed the town bus, which was stopped in front of his vehicle and he and the deceased sustained injuries and Gopal died on the spot due to the injuries sustained by him and he was taken to the Hospital and he gave Ex.P1 complaint. Hence, the evidence of PW1 is corroborated with the contents found in Ex.P1 complaint. PW1 categorically stated that the accused drove the vehicle in a rash and negligent manner.

7.PW8 and PW9 are cited as eye witnesses. PW8 and PW9 deposed that on 18.06.2009 at 4.00 pm, they came in a two wheeler behind the vehicle of PW1 and when they reached the Lion Statue on Then-Periyakulam road, one person showed his hand, then the driver of the



town bus, which was proceeded in front of PW1's vehicle was stopped and the accused drove his vehicle in a speedy manner and dashed against the vehicle of PW1 and PW1 sustained injuries and the pillion rider Gopal sustained injuries and died on the spot. PW8 and PW9 have not deposed that the accused drove the vehicle in a rash and negligent manner. But PW1 categorically stated that after seeing the bus, which was proceeded in front of them was stopped, he stopped his vehicle, but the accused drove his vehicle in a rash and negligent manner and dashed against his vehicle and the vehicle, which was stopped in front of his vehicle. The driver of the bus, which was proceeded in front of the two wheeler of PW1 was examined as PW6. PW6 deposed that prior to 5 years, when he was served as 'driver' in the town bus and when he reached Annaji turning, at that time, the accused drove his vehicle on the back side and dashed against his bus.

8.The learned counsel appearing for the petitioner/accused argued that suddenly the bus proceeded in front of PW1's bus was stopped and only due to the rash and negligent driving of the town bus, which was proceeded in front of PW1's vehicle and not due to the rash and negligent driver of the accused and prays that the accused is entitled to acquittal. It is to be noted that no complaint was given against the driver of the town bus, which was proceeded in front of PW1's vehicle.

9.On careful perusal of the evidence of PW1, he has stated that he saw that the bus proceeded in front of his vehicle was stopped and hence, due to it, he also stopped his vehicle, but the accused drove his vehicle in a rash and negligent manner and dashed against his vehicle. PW1 has not stated that the driver of the bus, which was proceeded in front of his stopped the bus suddenly. From the evidence of PW1, it reveals that after seeing the bus, which was proceeding in front of him, PW1 stopped his vehicle. But the accused drove his vehicle in a rash and negligent manner and dashed against PW1's two wheeler and then on the bus, which was proceeded in front of PW1's vehicle. Hence, it shows the rash and negligent driving of the accused. In this case, PW1's evidence is cogent, trustworthy and hence, his evidence can be relied upon.

10.For all the reasons stated above, the both the courts below have concurrently given correct findings, which do not require interference by this court. However, considering the facts and circumstances of the case and also considering the family circumstances of the petitioner, the punishment imposed on the petitioner requires modification.

11.In the result, the criminal revision is partly allowed. The punishment imposed on the revision petitioner for the offence under Section 304(A) IPC is reduced to **6 months RI**. In other aspects, the findings of the Courts below are confirmed. The period of sentence, if any, already undergone by the revision



petitioner/Accused shall be given set off under Section 428 of Cr.P.C. The petitioner/Accused, after adjusting the period of imprisonment already undergone shall undergo imprisonment for the remaining period.

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Sd/-

Assistant Registrar

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The Additional District and Sessions Judge,
Theni @ Periyakulam.

2.The Judicial Magistrate, Theni.

3. -Do- Thro the Chief Judicial Magistrate, Theni

4. The Inspector of Police,
Allinagaram Police Station,
Theni.

5.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)

+1 CC to Mr.B.RAJAESH SARAVANAN, Advocate (SR-4976[F] dated
06/02/2020)

Crl.RC(MD)No.605 of 2015

05.02.2020

MK (26.02.2020) 4P 9C