



BAIL SLIP

The Appellant/Accused Thangavel, S/o. Chinnasamy, was released on bail (accused not in jail) order dated 26.02.2016 made in CRL MP(MD).1710 of 2016 in CRL RC(MD).104 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.R.C (MD) No.104 of 2016

Thangavel ...Petitioner / Petitioner/
Accused

Vs

The State,
the Sub Inspector of Police,
Sempatti Police Station,
Dindigul District. ...Respondent / Respondent/
Complainant

PRAYER: Criminal Revision Case has been filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records and to set aside the judgment made in C.A.No.38 of 2014 by the Principle Sessions Judge, Dindigul dated 06.11.2015 confirming the judgment of conviction made in C.C.No.309 of 2012 by the Judicial Magistrate No.I, Dindigul dated 24.11.2014.

For petitioner : Mr.D.Venkatesh
For Respondent : Mr.A.Robinson,
Government Advocate (Crl Side)

ORDER

This revision petitioner was found guilty by the trial Court as well as by the appellate Court for the offence under Section 304A IPC and aggrieved over same, the present revision petition has been filed.

2.The petitioner the Driver of the State Transport Corporation has been prosecuted for the offence under Section 304 A IPC before the learned Judicial Magistrate No.I, Dindigul in C.C.No.309 of 2012 and the trial Court by order dated 24.11.2014 found this petitioner guilty for the offence under Section 304 A IPC, convicted and sentenced him to undergo simple imprisonment



for six months with fine of Rs.1,000/- in default to undergo, one month simple imprisonment.

3. Aggrieved over the conviction and sentence the petitioner also preferred an appeal before the Court of Sessions, Dindigul and the same was dismissed by the Principle Sessions Judge, Dindigul in C.A.38 of 2014 dated 06.11.2015. Challenging the judgments of the trial Court and the appellate Court, the present revision case has been filed.

4. The case of the prosecution is that on 27.10.2003 at about 2.20 pm, the deceased was riding a two wheeler [Kawasaki Boxer] bearing Registration No.TN 57 F 8815, near Attur, towards Sembatti and at that time this petitioner was proceeding from Ottanchathiram to Sembatti in a Tamil Nadu State Transport Corporation Bus bearing Registration No.TN 33N 1677. The two wheeler rode by the deceased hit on the bus of the petitioner and on account of that he succumbed to injuries on the spot. Sakthivel [PW1] son of the deceased lodged a complaint before the Sub Inspector of Police [PW10], Sembatti Police Station and a case was registered on 27.10.2003 at 3.00 pm in Crime No.466 of 2003 for the offence under Section 304A IPC and the Investigation Officer [PW11] visited the place of occurrence on the next day morning at about 6.30 am, prepared an observation mahazar [ExP4] and rough sketch [ExP7] in the presence of witnesses, Krishnan [PW6] and Balasubramani [PW9]. PW11 has also collected the report from the Motor Vehicle Inspector examined, other witnesses and filed the final report as against this petitioner.

5. The trial Court framed the charge against this petitioner for the offence under Section 304 A IPC and in conclusion of the trial, the trial Court found this petitioner guilty, convicted and sentenced as stated supra.

6. Heard Mr.D.Venkatesh, learned Counsel for the revision petitioner and Mr.A.Robinson, learned Government Advocate (CrI Side) appearing for the State.

7. This revision case has been filed on the ground that both the courts have failed to consider that the occurrence has taken on the left side of the road and the deceased, who came in the wrong direction, hit on the bus driven by this petitioner and succumbed to injuries. According to the learned Counsel for the petitioner, this petitioner was proceeding from Tiruppur to Madurai. On the way from Ottanchathiram to Sembatti, he was driving the bus, from North to South in a proper manner on the eastern side of the road, whereas, the deceased, who rode the Kawasaki Boxer, motorcycle came in a rash and negligent manner and hit the bus, due to which he died on the spot. The



respondent Police though noted down place of occurrence on the extreme left side of the road, filed the final report in a mechanical manner, as if, the petitioner has driven the bus in a rash and negligent manner and is responsible for the commission of offence and therefore, prayed for allowing this revision case.

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8.Per contra learned Government Advocate [Cr1 Side] appearing for the State submitted that the trial Court as well as the appellate Court rightly appreciated the evidence and found this petitioner guilty.

9.The learned Counsel for the petitioner mainly relied on the rough sketch [Exp7]. A perusal of the rough sketch [Exp7] shows that the bus driven by the petitioner was proceeding on the left side of the road, but the the deceased's two wheeler, which came on the opposite direction collided with the bus on the right side edge. It shows that the accident had taken place on the left side of the road, wherein this petitioner was driving the bus from North to South, whereas the deceased admittedly came in the opposite direction, hit the bus on the right side edge.

10.The Motor Vehicle Inspector [PW12] also issued his report [Exp9] that the right side portion of the bus got damaged in this incident and he admitted in his evidence that it is only right side indicator and the bumper of the bus bearing registration No.TN 33 N 6677 were found damaged. Insofar as of the motor cycle is concerned he issued certificate [Exp10] that the front side of the mud guard, lamp and the petrol tank were found damaged.

11.That apart, the Investigation Officer [PW11] in his evidence admitted that the occurrence had taken place as head on collision. The motorcycle of the deceased came in the opposite direction on the right side and hit with the bus of the petitioner. There is also no explanation in his final report, as to how this two wheeler came to the opposite direction and hit against the petitioner's bus. Further, there is no evidence that the motorcycle came to the right side by due to skidding or due to any other mechanical defect.

12.A Perusal of the rough sketch [Exp7] and the observation mahazar [Exp2], the evidence of the Investigation Officer [PW11] and the Motor Vehicle Inspector [PW12] reveals that the deceased came in the two wheeler in the opposite direction, hit against the petitioner's bus and caused damage on the right side of the petitioner's bus. The deceased vehicle was not fully damaged, the tyres were intact.



13.This petitioner was driving the bus on the extreme left side of the road, whereas, the deceased, who came in the opposite direction, came on the right side and hit the bus. Therefore, the petitioner cannot be found fault with that the petitioner was driving the bus in a rash and negligent manner and caused the death of the deceased. Further, the investigation agency has also not examined any of the passengers, who travelled in the Bus.

14.In view of the discussion held above, this revision case is allowed. The judgment in C.A.No.38 of 2014 by the Principle Sessions Judge, Dindigul dated 06.11.2015 and the judgment in C.C.No.309 of 2012 by the Judicial Magistrate No.I, Dindigul, dated 24.11.2014 are set aside. The petitioner is acquitted of the charge framed against him. Fine amount, if any, paid by the petitioner shall be refunded.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dsk

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Principle Sessions Judge,
Dindigul
- 2.The Judicial Magistrate No.I,
Dindigul
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



Crl.R.C (MD) No.104 of 2016

Copy to

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

Crl.R.C (MD) No.104 of 2016
04.08.2020

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