



Bail Slip

V.Senthil Kumar, (Male/35), Sole Accused, S/o.Velusamy, was released on Bail vide Court order dated 29.03.2016 made in Crl.MP (MD)No.2718 of 2016 in Crl.RC(MD)No.197 of 2016.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C(MD)No.197 of 2016

V.Senthil Kumar : Petitioner/Appellant/Accused

Vs

State Rep. by
The Inspector of Police,
Velayuthampalayam Police Station,
Karur District.
(Crime No.401 of 2007)

: Respondent

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the Judgment passed in C.A.No.31 of 2012, dated 05.06.2012 on the file of the Sessions Judge and Fast Track Court, Mahalir Neethimandram, Karur, modifying the Judgment passed in C.C.No.29 of 2008, dated 28.12.2015 on the file of the Judicial Magistrate No.2, Karur and set aside the same.

For Petitioner : Mr.K.P.S.Palanivel Rajan
For Respondent : Mr.A.Robinson
Government Advocate (Crl.side)

ORDER

Heard the learned counsel on either side.

2.The revision petitioner is a lorry driver. On 21.09.2007, he was driving the lorry bearing Registration No.TN 28 X 50 88 from Velapalayam to Kodumudi. The lorry was going from east to west. The deceased Balasubramani was standing with his two wheeler in the very same road. The revision petitioner, who was driving the lorry from the opposite direction, while attempting to overtake another vehicle, hit him and caused his instant death. Therefore, Crime No.401 of 2007 was registered on the file of the Velayuthampalayam Police Station for the offence under Section 304(a) of IPC. The case was investigated and final report was filed. The revision petitioner was served with the copies and questioned. The revision

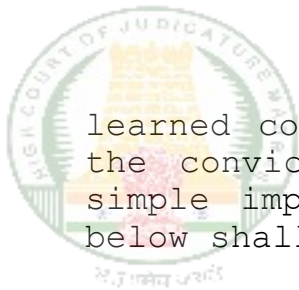


petitioner denied his guilt and claimed to be tried. The prosecution examined P.W.1 to P.W.8 and marked Ex.P1 to Ex.P8. On the side of the accused, no evidence was adduced. The accused was questioned on the incriminating circumstances and he merely denied the same. The learned trial Magistrate, vide Judgment dated 05.06.2012, found the accused guilty of the offence and sentenced him to undergo one year simple imprisonment and also levied a fine of Rs.1,000/-. The same was questioned by the accused before the Appellate Court in Crl.A.No.301 of 2012 on the file of the Sessions Judge and Fast Track Court, Mahalir Neethimandram, Karur. By Judgment dated 28.12.2015, the Appeal was partly allowed by confirming the conviction but by reducing the sentence to six months simple imprisonment. Challenging the same, this Criminal Revision Case came to be filed.

3.The learned counsel appearing for the revision petitioner drew my attention to the testimony of P.W.2 and contended that in view of the barricade erected on the road, it was not possible for the accused to have driven the vehicle in a rash and negligent manner.

4.But then, I am not persuaded by the said submission. The rough sketch was marked as Ex.P6 through P.W.7. The contents of the sketch have not been challenged. As rightly pointed out by the learned Government Advocate (Crl.side), there are no barricades shown as having been there on the road. In any event, the occurrence had taken place on the extreme northern side. The revision petitioner was driving his vehicle from east to west. The accident had taken place on the extreme northern end. That would by itself indicate the rash and negligent driving on the part of the revision petitioner. As rightly pointed out by the learned Government Advocate (Crl.side), the revision petitioner was driving what is known in common parlance as sand lorry. This Court can take judicial note of the fact that the sand lorries are driven in the most rash and negligent manner. Of-course, the culpability of the revision petitioner does not rest on this judicial note of some fact but on the contents of the rough sketch, P.W.1 is a eye witness. P.W.1 had clearly stated that the accident occurred because the offending lorry was trying to overtake the another lorry. In fact, P.W.1 had also deposed that the deceased was standing with his two wheeler on the mud portion of the road. That means, he was standing on the extreme right side in the opposite direction. That the offending lorry could have hit him is indicative of the culpability of the revision petitioner. Both the Courts below found the petitioner guilty and I am not persuaded to come to the conclusion that the finding is vitiated by irregularity or perversity.

5.On a re-appreciation of the entire evidence on record, I come to the conclusion that the finding of guilt is justified. However, taking note of the lapse of time and other aspects pleaded by the



learned counsel for the revision petitioner, even while confirming the conviction, I reduce the period of sentence from six months simple imprisonment to one month simple imprisonment. The Court below shall take steps to enforce this order.

6. With this modification in the matter of sentence, this Criminal Revision Case is partly allowed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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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 Inspector of Police,
Velayuthampalayam Police Station,
Karur District.
2. The Judicial Magistrate No.2, Karur.
3. The Session Judge, Fast Track Court,
Mahalir Neethimandram, Karur.
4. The Chief Judicial Magistrate, Karur.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.P.S.Palanivel Rajan, Advocate, SR.No.24170.

Cr1.R.C(MD)No.197 of 2016
04.12.2020

SSS(CO)
CS(05.01.2021) 3P 7C