

BAIL SLIP

petitioner Eesakkimuthu S/o Arumugam was released on bail vide order dated 21.04.2016 in CRL Mp(MD).NO.3419 of 2016.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.258 of 2016

Esakkimuthu

.. Revision petitioner/ Accused

Vs.

State rep. by,
The Inspector of Police,
Pasupathipalayam police station,
Karur District.
(Crime No.15 of 2005)

.. Respondent/Complainant

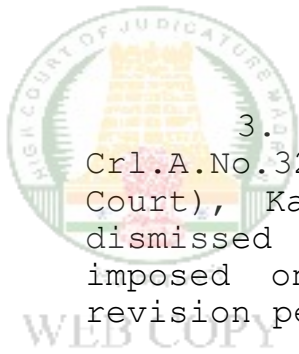
Prayer : This Criminal Revision petition filed under Section 399 and 401 of Cr.P.C., to set aside the Judgment of conviction and sentence imposed on the revision petitioner/accused by the Judicial Magistrate No.I, Karur, in Calender Case No.799 of 2006 dated 25.07.2014 and confirmed by the Mahalir Neethi Mandram(Fast Track Mahila Court),Karur in Criminal Appeal No.32 of 2014 dated 16.12.2015 and acquit the revision petitioner/accused giving benefit of doubt.

For Petitioner	: Mr.E.K.Kumaresan
For Respondent	: Mr.A.Robinson, Government Advocate(Crl.Side)

ORDER

Heard the learned counsel appearing for the revision petitioner and the learned Government Advocate(Crl.Side) appearing for the respondent.

2. The petitioner herein was charged with the offence under Section 304(A) of I.P.C. and tried in C.C.No.799 of 2006 on the file of the Judicial Magistrate No.I, Karur. The case of the prosecution was that on 12.01.2005 at about 7.45 a.m., the revision petitioner was driving his lorry bearing registration No.TN 38-U-4646 in Karur-Trichy road in a rash and negligent manner and hit one Rajendran who was riding his TVS-50 bearing registration No.TN 47-H-3975 from behind. The said Rajendran died on the spot. Hence, Crime No.15 of 2005 was registered on the file of Pasupathipalayam police station against the petitioner herein for the offence under Section 304(A) r/w. 132 I.P.C. r/w. 177 of Motor Vehicles Act. In support of charges, the prosecution examined as many as nine witnesses and marked Ex.P.1 to Ex.P.9. On the side of the accused, no evidence was adduced. The learned trial Judge after a detailed consideration of materials on record, by Judgment dated 25.07.2014, found the revision petitioner guilty of the offences with which he was charged and sentenced him six months Simple Imprisonment and also levied a fine of Rs.1,100/-.



3. Aggrieved by the same, the revision petitioner filed Crl.A.No.32 of 2014 before the Sessions Judge(Fast Track Mahalir Court), Karur. The appellate Judge by Judgment dated 16.12.2015 dismissed the appeal and confirmed the conviction and sentence imposed on the revision petitioner. Challenging the same, the revision petitioner has filed the present revision petition.

4. The learned counsel appearing for the revision petitioner reiterated all the contentions set out in the memorandum of grounds.

5. In support of the case, the prosecution examined P.W.1 to P.W.3 and P.W.6 as eyewitnesses. The learned trial Magistrate had specifically noted that from Ex.P.5 report, the two wheeler suffered extensive damage on the backside. From Ex.P.5 report, one can safely infer that it was the lorry that hit the two wheeler from behind. In fact this damage report given by the inspecting official corroborates the ocular evidence. P.W.6 is the Sub Inspector of Police. He is not an interested witness. He has categorically deposed that when he signalled the revision petitioner to stop the vehicle, the vehicle did not stop but sped on and hit the two wheeler. Of course the learned counsel appearing for the petitioner would state that P.W.6 could not have witnessed the occurrence. It is obvious that the specific stand of P.W.6 is that he was very much present near the occurrence spot. The Court below have believed the eyewitnesses. The damage report is also in consonance with the same. Confronting with the overwhelming evidence and the fact that both the Courts below found the petitioner guilty, the learned counsel appearing for the petitioner submitted that he would not challenge the finding of guilt and that he would only pray for reduction of sentence.

6. It is seen that the petitioner is aged about 50 years. The occurrence had taken place more than 15 years ago. The petitioner is having a family to support. Therefore, interest of justice will be met by reducing the period of sentence from six months Simple Imprisonment to two months Simple Imprisonment. The period of sentence already undergone by the petitioner will be set off. The conviction imposed on the petitioner is confirmed. The sentence of six months Simple Imprisonment is modified to two months Simple Imprisonment.

7. This criminal revision case stands partly allowed.

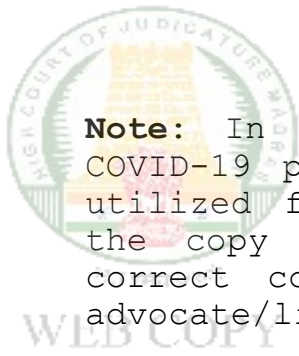
Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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 Sessions Judge,
The Mahalir Neethi Mandram(Fast Track Mahila Court),
Karur.
2. The Judicial Magistrate No.I,
Karur.
3. The Inspector of Police,
Pasupathipalayam police station,
Karur District.
4. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

Copy to

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

Crl. R.C. (MD) No.258 of 2016
07.10.2020

SMV(CO)
KB(15.10.2020) 3P 7C