



Bail Slip

Krishnadas, S/o.Ramalingam, aged about 50/2016, Sole Accused was released on bail vide order of this Court in dated 08.06.2016 in Crl.MP(MD)No.4325 of 2016 in Crl.R.C.(MD)No.339 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.339 of 2016

Krishnadas

.. Petitioner/Appellant/Accused

Vs.

State rep. by,
The Sub Inspector of Police,
Traffic Investigation Wing police station,
Nagercoil.
(Crime No.43 of 2007)

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision petition is filed under Sections 397 r/w. 401 of Cr.P.C., to call for records relating to Judgment passed by the learned Mahila Fast Track Court, Nagercoil, dated 01.04.2016 in C.A.No.64 of 2009 confirming the Judgment passed by the Judicial Magistrate No.3, Nagercoil, in S.T.C.No.2823 of 2007 dated 19.11.2009 and set aside the same and allow this revision petition.

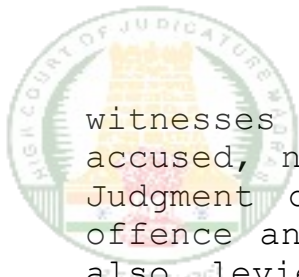
For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.A.Robinson,
Government Advocate(Crl. Side).

ORDER

Heard the learned counsel on either side.

2. The revision petitioner Krishnadas was driving a mini bus bearing registration No.TN 74-E-7580 near Parvathipuram Junction on 29.04.2007 at about 1.15 p.m, when the fatal accident in question took place. Thereupon, Crime No.43 of 2007 was registered by the Sub Inspector of Police, Traffic Investigation Wing police station, Nagercoil. Investigation was undertaken and final report came to be filed against the revision petitioner for having committed the offence under Section 304(A) of I.P.C. The revision petitioner was questioned and he denied the guilt and he claimed to be tried. The prosecution examined as many as 14



witnesses and marked Ex.P.1 to Ex.P.8. On the side of the accused, no evidence was adduced. The learned trial Magistrate by Judgment dated 19.11.2009 found the accused guilty of the said offence and sentenced him to three months Simple Imprisonment and also levied a fine of Rs.2,000/-. Default sentence was also imposed. Questioning the same, C.A.No.64 of 2009 was filed before the Mahila Fast Track Court, Nagercoil. By Judgment dated 01.04.2016, the first appellate Court dismissed the appeal and confirmed the Judgment of the trial Court. Challenging the same, this criminal revision case came to be filed.

3. The learned counsel appearing for the petitioner submitted that the impugned Judgment deserves to be set aside and the appeal has to be allowed and the revision petitioner may be acquitted.

4. Per contra, the learned Government Advocate(Crl. Side) submitted that the impugned Judgments do not warrant any interference and wanted me to dismiss the revision case.

5. I carefully considered the rival contentions and went through the materials on record.

6. As already pointed out, the prosecution examined as many as 14 witnesses. Out of them, P.W.1 to P.W.3 were shown as eyewitnesses. P.W.1 is none other than the son of the deceased. His presence in the scene of occurrence is truly doubtful. The deceased Stella Bai was admitted in Asaripallam Government Hospital which is located nearby at a distance of two kilometers. She was taken in the ambulance. P.W.1 did not accompany the deceased to the hospital and he also did not inform the police immediately after the occurrence. The police had gone to Asaripallam Government Hospital only upon receiving the intimation from Asaripallam outpost. When the police went to the hospital, the body of the deceased was lying in the mortuary and no relatives were found to be around.

7. From this, I am of the view that P.W.1 was not an eyewitness and only for the purpose of bolstering the prosecution case, he had been projected as an eyewitness. P.W.2 is also a relative and P.W.1 does not talk about the presence of P.W.2. P.W.3 is said to be the acquaintance of the family. For the very same reasons which impel me to doubt the testimony of P.W.1, I doubt the testimony of P.W.2 and P.W.3.

8. The arguments before this Court centred primarily around the Rough Sketch, namely, Ex.P.8. The contents of the Rough Sketch are admitted by both the parties. It is seen therefrom that the deceased was found on the southern side mud portion. The bus is



seen in the Rough Sketch at the distance of 25 feet from the accident spot. The learned counsel appearing for the revision petitioner would contend that the area was a very busy road and the bus could not have been driven in a rash manner. It appears that the mini bus after stopping in the mud portion had turned towards the road portion and while moving from east to west, it appears that the deceased a 65 years old lady who was walking on the mud portion had suddenly stepped on to the road portion and came in front of the bus. The bus had knocked her down and stopped at the distance of about 25 feet. The deceased was thrown to the left side. Admittedly it did not run over the body of the deceased.

9. From this, one can come to the safe conclusion that the version projected by the defence is quite probable. The revision petitioner is only an accused and therefore he only needs to probablise his defence based on the standard of preponderance of probability. It is for the prosecution to establish the case beyond reasonable doubt. From a careful perusal of Rough Sketch Ex.P.8, the version projected by the learned counsel appearing for the revision petitioner appears to be more probable. The occurrence had taken place near what is known as Parvathipuram Junction.

10. Taking note of the attending circumstances and particularly the fact that the testimony of the eyewitnesses has been disbelieved, I am of the view that the revision petitioner is entitled to acquittal. In this view of the matter, the Judgments impugned in this criminal revision case are set aside and the revision petitioner is acquitted. This criminal revision case stands allowed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

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.

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



To

1. The Additional Sessions Judge,
Fast Track Mahila Court, Nagercoil.
2. The Principal Sessions Judge,
Kanniyakumari District at Nagercoil.
3. The Sessions Judge,
Mahila Fast Track Court, Nagercoil.
4. The Judicial Magistrate No.3,
Nagercoil.
5. The Chief Judicial Magistrate,
Kanniyakumari District at Nagercoil.
6. The Sub Inspector of Police,
Traffic Investigation Wing Police Station,
Nagercoil.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to

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

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-24228[F] dated 07/12/2020
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Crl. R.C.(MD)No.339 of 2016
04.12.2020

KM (28.12.2020) 4P 11C