

**BAIL SLIP**

Sivashankar @ Mani, S/o.Chandrasekar, aged about 36 years/2016 (Accused) is released on bail vide Court order dated 15.06.2016 made in Crl MP(MD)No.995 of 2016 in Crl RC(MD)No.49/2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrl. R.C. (MD)No.49 of 2016

Sivashankar @ Mani

.. Petitioner/Appellant/
Accused

Vs

The State rep. By,
The Sub-Inspector of Police,
Ammayanaickanur police station,
Dindigul District.
(Crime No.11 of 2006)

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision filed under Sections 397 r/w. 401 of Cr.P.C., to set aside the Judgment and sentence passed in Crl.Appeal No.34 of 2014 dated 23.11.2015 on the file of the Principal Sessions Judge, Dindigul, confirming the Judgment and sentence passed in C.C.No.250 of 2006 on the file of the Judicial Magistrate, Nilakottai dated 15.10.2014 convicting the petitioner under Section 304(A) of I.P.C. and Sections 3 r/w. 181 and 14(1) r/w. 196 of Motor Vehicle Act and sentenced to undergo one year Simple Imprisonment for the offence under Section 304(A) of I.P.C. and sentenced to undergo three months Simple Imprisonment for the offence under Section 3 r/w. 181 of Motor Vehicle Act and sentenced to undergo three months Simple Imprisonment for the offence under Section 14(1) r/w. 196 of Motor Vehicle Act and the sentences ordered are to run concurrently.

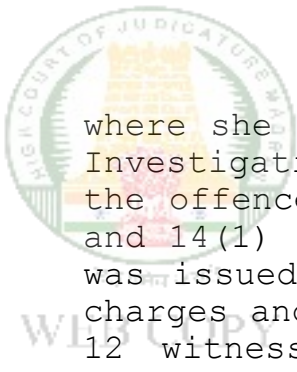
For Petitioner : Mr.S.M.Mohan Gandhi

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

ORDER

Heard the learned counsel on either side.

2. The revision petitioner was riding a two wheeler bearing registration No.TN63-C-9792 in Nilakkottai to Ammaiyaanackanur Kodai Road on 03.04.2006 at about 11.45 a.m. The deceased Muthammal was waiting in the bus stop on the left side of the road. The revision petitioner had driven the vehicle in a rash and negligent manner, hit her and caused her injuries. She was taken to the hospital,



where she died. In this regard, Crime No.11 of 2006 was registered. Investigation was taken up and final report was filed. Cognizance of the offences under Section 304(A) of I.P.C. and Sections 3 r/w. 181 and 14(1) r/w. 196 of the Motor Vehicles Act was also taken. Summon was issued to the petitioner and he was questioned. He denied the charges and claimed to be tried. The prosecution examined as many as 12 witnesses and marked Ex.P.1 to Ex.P.8. On the side of the accused, no evidence was adduced.

3. The learned trial Magistrate by Judgment dated 15.10.2014 found the accused guilty of the offence with which he was charged and sentenced him as follows:-

S.No	Offence u/s.	Punishment
1.	304(A) of I.P.C.	to undergo 1 year Simple Imprisonment.
2.	3 r/w. 181 of M.V.Act	To undergo 3 months Simple Imprisonment.
3.	14(1) r/w. 196 of M.V.Act	To undergo 3 months Simple Imprisonment.

The sentences were to run concurrently. Questioning the same, the revision petitioner filed C.A.No.34 of 2014 before the Principal Sessions Judge, Dindigul. The learned appellate Judge vide Judgment dated 23.11.2015 confirmed the Judgment of the learned trial Magistrate and dismissed the appeal. Challenging the same, this criminal revision case came to be filed.

4. I carefully considered the rival contentions and went through the entire evidence on record.

5. A mere perusal of Ex.P.4 Rough Sketch which has not been challenged, one can note that the deceased Muthammal was very much standing on the left side of the road. She was waiting to board the bus. The revision petitioner who was coming from west to east in the two wheeler had hit her. The occurrence had taken place at 11.45 a.m. Therefore from this solitary circumstance, one can easily come to the conclusion that the revision petitioner must have ridden the vehicle in a rash and negligent manner. In any event, the prosecution has examined P.W.1 Gunasekaran, P.W.2 Nagalakshmi and P.W.3 Arundhati in this regard. These three witnesses are eyewitnesses. Their presence must not be doubted merely because they are close relatives. The family was waiting in the bus stop to board the bus. The investigation officer/P.W.12 had also clearly deposed that the accused was not having the driving license. This has not been challenged in the cross examination. Thus, the revision petitioner had recklessly ridden the vehicle without license and without even insuring the vehicle. Probably, that is why the Courts below had given one year imprisonment to the revision petitioner herein.



6. The learned counsel appearing for the revision petitioner would not challenge the finding of guilt. He only prays that this Court can show indulgence in the matter of sentence. The learned counsel pointed out that more than 14½ years have passed by and the accused is now aged 40 years and he is having a family to support. If he is sentenced to undergo the imprisonment, it would cause much hardship.

7. Taking note of the mitigating circumstances pleaded by the learned counsel appearing for the petitioner, even while confirming the conviction, the sentence of imprisonment imposed on the petitioner is reduced from one year Simple Imprisonment to two months Simple Imprisonment. The period already undergone by the revision petitioner will be set off under Section 428 of Cr.P.C.

8. With this modification in the matter of sentence, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

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.

To

1. The Principal Sessions Judge,
Dindigul.
2. The Judicial Magistrate,
Nilakottai.
3. The Chief Judicial Magistrate, Dindigul.
4. The Sub-Inspector of Police,
Ammayanaickanur police station,
Dindigul District.



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

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1cc to Mr.S.M.MOHAN GANDHI, ADVOCATE, SR NO 25484

Cr1. R.C. (MD) No.49 of 2016

11.12.2020

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MJ(CO)
KK(05.02.2021) 4P 9C