



Bail Slip

The Appellant / Accused namely Elangovan, S/o.Amarasan was directed to be released on bail as per order of this Court dated 02.11.2015 in MP.No.01/2015 in CrI.R.C.No.1152 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA
CrI.R.C.No.1152 of 2015

Elangovan
S/o.Amarasan

... Petitioner / Accused

Vs.

State by
Inspector of Police,
Thimiri Police Station,
Vellore District.

... Respondent / Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to set aside the judgment in CrI.A.No.60 of 2014 dated 13.08.2015 on the file of II Additional District and Sessions Judge, Ranipet confirming the Judgment made in C.C.No.88 of 2008 dated 10.07.2014 on the file of Judicial Magistrate No.I, Walajapet and allow this Criminal Revision Petition.

For Petitioner : Mr.C.S.S.Pillai
for Mr.V.Devendhiran

For Respondent : Mr.A.Gopinath
Government Advocate (CrI.Side)

O R D E R

This Criminal Revision case has been preferred challenging the judgment of the learned II Additional District and Sessions Judge, Ranipet dated 13.08.2015 confirming the judgment of the learned Judicial Magistrate No.I, Walaja dated 10.07.2014.

2. This case has arisen out of the road accident. On 05.06.2008 at about 11.30 hours when the de facto complainant/Raman was riding his TVS-50 bearing Registration No.TN 23 V 3899 by having his wife, baby and daughter-Geetha as pillion riders and coming on Arni-Arcot Road near Prasanna Welding shop on the left side of the road, a Government bus bearing Registration No.TN 23 N 1295 came in a rash and negligent manner and hit against his TVS-50, in which PW1 and his child Geetha sustained simple injuries. His wife and baby sustained serious injuries and died on the spot.



3. On the complaint given by PW1/Raman, PW10-Inspector of Police registered a case in Crime No.210 of 2008 under Sections 279, 337(2 counts) and 304(A) IPC. He took up the case for investigation, visited the place of occurrence and prepared the Observation Mahazar (Ex.P5) and Rough Sketch (Ex.P7) in the presence of the witnesses. He examined the witnesses, conducted inquest on the body of the deceased and later, sent the body for conducting postmortem. He also sent the vehicle involved in the accident for Motor Vehicle Inspection, got the Motor Vehicle Inspector's report. He later arrested the accused and sent him for remand. He also examined the Doctor/PW6 who treated PWs 1 and 3 and obtained wound certificates (Exs.P2 & P3) and after completing the investigation, he laid the charge sheet against the accused under Sections 279, 337(2 counts) and 304(A) IPC. After the case was taken on file, the learned trial Judge framed the charges against the accused, copies were furnished to him. When the accused was questioned, he pleaded innocence and claimed to be tried and hence, trial was conducted.

4. During the course of the trial, on the side of the prosecution, 10 witnesses have been examined as PW1 to PW10 and 10 documents were marked as Exs.P1 to P10. On the side of the defence, no witness was examined and no document was marked.

5. At the conclusion of trial and considering the materials available on record, the learned trial Judge found the accused guilty for the offence under Sections 337(2 counts) and 304(A) IPC and convicted and sentenced him as under:-

Offence	Punishment
337 (2 counts) IPC	To pay a fine of Rs.1000/- in default to undergo one week Simple Imprisonment
304(A) IPC	To undergo 6 months Simple Imprisonment

6. The Criminal Appeal preferred by the accused challenging the judgment of the trial Court was also dismissed on 13.08.2015 in C.A.No.60 of 2014 by confirming the judgment of the trial Court. Aggrieved over that the petitioner/accused has preferred this revision.

7. Heard the learned counsel for the revision petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent. Perused the entire materials available on record.

8. Point for consideration:-

Whether the punishment of the accused for the offence under Sections 337 (2 counts) and 304(A) IPC by



the learned Sessions Judge based on the materials available on record is fair and proper?

9. The learned counsel for the revision petitioner submitted that the negligence is not on the part of the petitioner and the rider of the two wheeler did not abide the Rules of the Road. He has further submitted that there are contradictions in the evidence of the witnesses and the lower Court omitted to take them into consideration and acquit the petitioner.

10. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that the eye-witnesses and the evidence of the Investigation Officer will prove that the negligence is not on the part of the complainant and it is correct for the Courts below to convict the accused for the offence under Section 337 (2 counts) and 304(A) IPC.

11. The fact that the wife of PW1 died in the accident was not disputed. The accused, who is an employee of State Transport Corporation, had handled was driven the bus Route No.7J and driven the bus bearing Registration No.TN 23 N 1295 from Arni towards Arcot. At that time, PW1 was riding his TVS-50 by having his wife and children as pillion riders. TVS-50 was also going from Arni and towards Arcot. The Government Bus driven by the accused was following TVS-50 in the same direction. According to the evidence of PW1, the Government Bus, which was going behind TVS-50, hit against the TVS-50 and because of the impact, PW1 and his daughter fell down on the left side of the road and his wife Baby fell down on the right side of the road and the back tyre of bus ran over his wife and because of that, she died. The road in which the accident had taken place was a single road, in which one bus alone can run at a time. The accident had not taken place while any other vehicle was overtaking the bus. When the bus was following the two wheeler, it would have been very much visible to the eyes of the bus driver. Had the driver been vigilant and maintained some distance, he would not have hit against the two wheeler.

12. It is not the case of the defence that the two wheeler was riding on the wrong side of the road or the rider of the two wheeler suddenly crossed the road and invited the accident. Due to the accident, PW1 and his daughter were thrown on the left side of the road only. When PWs1 and 2 went to the Doctor for taking treatment, they had narrated the above incident in the similar manner in which it was stated in the complaint. Had the bus driver given a horn at a reasonable distance, then at least



the two wheeler driver would have got chance to move away, when the bus was impending. But it seems that the driver had driven the bus in a rash and negligent manner and hit against the two wheeler. Sadly, the wife of PW1 was thrown on the right side of the road and she got fixed under the bus and the back tyre of the bus ran over her.

13. PW5, who had also witnessed the accident, rushed to the spot and helped the injured to be taken to the hospital. The Doctor, who had treated the injured, has seen the injuries on their body and she has stated that such kind of injuries can occur due to the alleged accident. Since the bus driver had omitted to adhere to the necessary precaution while going near the two wheeler which was running just in front of the bus, the accident had occurred. The manner in which the accident had occurred and the place where the injured and the deceased were thrown away would show that the negligent is on the part of the bus driver only. The defence did not establish any other possibility for the accident than the case of the prosecution. The Courts below have rightly appreciated the entire evidence available on record and rightly convicted the accused for the offence under Sections 337 (2 counts) and 304(A) IPC. Hence, I do not find any factual or legal infirmity in the judgments of the Courts below. However, the learned counsel for the defence submitted that some indulgence may be shown in the matter of punishment. He has submitted that the accused, being the driver of the State Transport Corporation, has not caused any other accident other than this unfortunate one. The accused seems to have served at least 10 years of service prior to the accident and during his service, there was no accident is reported. Even subsequent to this occurrence, he has not involved in any other accident. It is also seen from the evidence of some of the witnesses that there were some potholes on the road. Being the driver of the same route, the accused would have been aware of the condition of the road and he ought to have taken the necessary precautions while driving the bus in the particular place of this route. Taking into consideration of the submission of the learned counsel for the petitioner and also the single episode of accident in the entire career of the accused, I feel that some consideration may be shown in the punishment.

14. In the result, this Criminal Revision is Partly allowed. The judgment dated 13.08.2015 made in C.A.No.60 of 2014 on the file of II Additional District and Sessions Judge, Ranipet is hereby modified to the effect that the petitioner/accused shall undergo 3 months Simple Imprisonment and to pay a fine of Rs.5000/- for the offence under Section 304(A) IPC. Rest of the punishment imposed for the rest of offence for which the accused



was found guilty and convicted, shall remain unaltered and the sentence will run concurrently.

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Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

kmi

To

1. The II Additional District and Sessions Judge,
Ranipet.
2. -do through- The Principal District & Sessions Judge,
Vellore.
3. The Judicial Magistrate No.I,
Walaja.
4. -do through- The chief Judicial Magistrate,
Vellore.
5. The Inspector of Police,
Thimiri Police Station,
Vellore District.
6. The Public Prosecutor,
High Court of Madras,
Chennai-104.

Cr1.R.C.No.1152 of 2015

VSN-II[co]
NSK 24/01/2022