



Bail Slip

The Petitioner/Accused viz., Mani, S/o.Krishnan was directed to be released on bail as per order dated 21.07.2015 in CrI.M.P.No.1 of 2015 in CrI.R.C.No.580 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.11.2021

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

CrI.R.C.No.580 of 2015

Mani

.. Petitioner

Vs.

State rep.by
Inspector of Police,
Indur Police Station,
Dharmapuri District
Crime No.26 of 2007)

.. Respondent

PRAYER : Criminal Revision has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the judgment in C.A.No.18 of 2014 on the file of the Principal District and Sessions Judge, Dharmapuri, Dharmapuri District dated 07.03.2015, confirming the judgment dated 09.04.2014 passed in C.C.No.84/2008 on the file of the Judicial MagistrateNo.II, Dharmapuri.

For Petitioner : Mr.M.Selvam

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

ORDER

This Criminal Revision Case has been preferred challenging the judgment of the Principal District and Sessions Judge, Dharmapuri dated 07.03.2015 made in C.A.No.18 of 2014.



2. The facts led to the case of the prosecution is as under:

On 30.01.2007, at about 9.30 a.m., when PW.1, PW.2 and the deceased namely Kuppan were standing near Sombatti bus stand, Penagaram to Dharmapuri Road, the accused had driven his two wheeler bearing registration No.TN 29 AA 4025 in a rash and negligent manner from Pennagaram towards Dharmapuri and dashed against the deceased, PW.1 and PW.2, due to which, PW.1 and PW.2 sustained simple injuries and one Kuppan sustained fatal injury. The injured were immediately taken to the Government Hospital, Dharmapuri for treatment. From there Kuppan was shifted to the intensive care at Government Hospital, Salem, where he was declared dead.

3. On a complaint given by PW.1- Selvam, a case was registered in Crime No.26 of 2007 of Indur Police Station under Section 279, 337(2 counts), 304(A) IPC., on 30.01.2007. P.W.13 / the Sub Inspector of Police, took up the matter for investigation and went to the scene of occurrence and prepared a rough sketch. In the process of investigation, he examined the doctor / P.W.14, who treated the deceased and the injured. He also conducted inquest on the bodies and collected a postmortem certificate of PW.3 and wound certificate of PW.1 and PW.2. At the request of P.W.15, P.W.12/the Inspector of Police had inspected the motor vehicle and issued a report, which has been marked as Ex.P4 and P.W.12 had stated that there were no mechanical defects in the vehicle which involved in the accident. After conducting the investigation, PW.15/the Inspector of Police filed a charge sheet against the accused under Section 279, 337 (2 counts) and 304(A) IPC.

4. Thereafter, the case was made over to the learned Judicial Magistrate No.II, Dharmapuri and taken on file in C.C.No.84 of 2008. The substance of the case was explained to the Petitioner/Accused and the Petitioner/Accused had denied the offence and claimed to be tried.

5. During the trial, in order to prove the guilt of the Petitioner/Accused, the prosecution, examined witnesses PW.1 to PW.15 on its side and marked documents Ex.P1 to Ex.P10. When the incriminating materials were put to the petitioner under Section 313 Cr.P.C. Further, on the side of the defence, no oral or documentary evidence were adduced. The Trial Court found the Petitioner/Accused guilty and convicted him vide the impugned judgment dated 09.04.2014 as follows:



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Rank of the accused	Conviction under section	Sentence Awarded
A	279 of IPC	To undergo one month Simple Imprisonment
	337 of IPC	To pay a fine of Rs.500/- for each counts; in default, to undergo Simple Imprisonment for a weeks for each count.
	304(A) of IPC	To undergo six months Simple Imprisonment and pay a fine of Rs.2,000/-; in default to undergo Simple Imprisonment for another two weeks

The total fine imposed on the accused is Rs.3,000/- and the trial Court ordered the sentences to run concurrently.

6. Against the said conviction and sentence, the Petitioner/Accused filed C.A.No.18 of 2014 and the Appellate Court had dismissed the appeal and confirmed the conviction and sentence passed by the Learned Judicial Magistrate No.II, Dharmapurai, in C.C.No.84 of 2008. Against which, the present Criminal Revision has been filed.

7. Heard the learned counsel for the revision petitioner and the learned Government Advocate (Crl.side).

8. The learned counsel for the revision petitioner submitted that there was no negligence on the part of the accused; the accident took place only because the deceased suddenly crossed the road and the accused had inevitably dashed against him and caused accident. He also submitted that at the time of accident, the accused was only 22 years old and he had driven the vehicle carefully; but the prosecution had wrongly fixed the negligence on the part of the accused and that was accepted by the Courts below for convicting the accused.

9. The learned Government Advocate (Crl.Side) has submitted that the occurrence has been witnessed by PW.1, PW.4 and PW.5 and they have given a clear ocular evidence about the occurrence and that only due to the negligence of the accused, the deceased and two other persons got injured in the accident. The prosecution evidence was correctly appreciated by the Courts below and it does not require any interference.

10. Points for consideration:

Whether the finding and judgment of the lower appellate Court suffer from any infairness, impropriety or



11. The fact that on the date of occurrence, the accused has driven his motor cycle, was not denied by the accused. The deceased, PW.1 and PW.2 were standing at the Sombatti bus stand and the accident had occurred only at that point of time. If the statement of the accused is taken as a gospel truth, that the deceased had crossed the road and contributed to the accident, the other witnesses PW.1 and PW.2 would not have got injured. When the three persons were standing and conversing among themselves, there were no necessity for one person to cross the road and get into the accident.

12. It is also to be stated that apart from the complainant PW.1, PW.2, PW.4 and PW.5 have also stated in their evidence that they had seen the occurrence on the alleged date of accident. PW.1 had stated that he was standing in front of Ramesh Tailer shop and had seen in what manner the accused had hit on the deceased. The evidences of PW.1 to PW.5 are cogent, clear and trust-worthy. They have stated how negligently the accused had driven the motorcycle and caused the accident. The injuries on the body of PW2. and PW.3 and the fatal injury suffered by the deceased would also go to show that the vehicle of the accused had hit them in a very bad manner.

13. PW.4 has stated that immediately after the accused hit the deceased, the deceased was thrown atleast 10 feet away from the gathering. This shows that the accused did not have any control over the vehicle and had driven the vehicle in a rash and negligent manner and caused the accident. Since the place of occurrence, the statement of the eye witnesses given before the Court along with the medical evidence and the evidence of the Motor Vehicle Inspector would give a credible account of the accident and that is was taken place only because of the negligent driving of the accused; the Motor Vehicle Inspector has also stated that there is no mechanical fault in the vehicle. The Courts below have appreciated the evidence in right perspective. Hence I find no reason for interference.

14. In due course of arguments, the learned counsel for the petitioner prayed some indulgence of this Court with regard to the punishment awarded. The accused is a young man and his future will be affected, if he is kept in a prison for a long time. The lower appellate Court ordered sentence him to undergo simple imprisonment for 6 months and imposed a fine of Rs.2,000/- for the offence committed under Section 304(A) IPC. It is submitted that the accused has paid the entire fine amount and he has also undergone imprisonment for two weeks.

15. Taking into consideration of the age and other attendant circumstances of the case, I feel that the sentence can be reduced to 3 months S.I., and the fine can be enhanced to Rs.10,000/-.



16. In the result, the Criminal Revision Case is partly allowed and the conviction passed against the accused by the trial Court vide judgment dated 09.04.2014 in C.C.No.84 of 2008, on the file of the Judicial Magistrate No.II, Dharmapuri is modified that the accused is committed and sentenced to undergo 3 months Simple Imprisonment and imposed with a fine of Rs.10,000/-. The period of imprisonment already undergone shall be set off under Section 428 of Cr.P.C.. Bail bond shall stand cancelled. The fine amount already paid should be set off against the fine amount now imposed. The accused shall be secured by the trial Court to undergo the remaining period of sentence.

Sd/-

Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Dharmapuri, Dharmapuri District.
2. The Judicial MagistrateNo.II,
Dharmapuri.
3. The Chief Judicial Magistrate,
Dharmapuri (for Informantion)
4. Inspector of Police,
Indur Police Station,
Dharmapuri District.
5. The Public Prosecutor,
High Court, Madras.
6. The Officer incharge
Sub-Jail, Dharmapuri.

Copy To
The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.M.Selvam, Advocate SR.No.61889

Cr1.R.C.No.580 of 2015

PMK(CO)
GMY(03/02/2022)

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