



BAIL SLIP

The Petition / Appellant / Accused namely Jeysankar, S/o.Kuppusamy, Aged about 38 years was directed to be released on bail as per the order of this Court dated 24.08.2015 made in MP.No.1 of 2015 in CrI.RC.No.831/2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(RESERVED ON : 30.07.2021)

(PRONOUNCED ON : 29.09.2021)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.R.C.No.831 of 2015

Jeyasankar

...Petitioner/Appellant/Accused

.. Vs ..

The Sub Inspector of Police,
Gengavalli Police Station,
Attur, Salem
Crime No.104/2004

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., against the judgment dated 23.06.2015 passed in C.A.No.29/2015 by the III Additional District and Sessions Judge, Salem confirming the judgment passed by the learned Judicial Magistrate No.2 cum (Special Judicial Magistrate No.1, Sandalwood cases, Athur, Salem) in C.C.No.102/2007 dated 21.01.2015 convicting him under Section 279 I.P.C and imposed fine of Rs.1000/- in default to undergo 1 month simple imprisonment and also convicted under Section 304 A I.P.C and sentenced to undergo 1 year R.I and also imposed fine of Rs.1000/- for each count in default to undergo 1 year simple imprisonment and further convicting under Section 3 r/w 181 M.V.Act and imposed fine of Rs.500/- in default to undergo 1 month simple imprisonment praying to set aside the above said convictions by call for the records and acquit him all charges.



WEB COPY

For petitioner : Mr.M.G.Udayashankar
For Respondent : Mr.R.Vinoth Raja,
Government Advocate (Crl.Side)

O R D E R

The convicted sole accused is the revision petitioner herein.

2. The respondent-police filed a final report in Crime No.104/2004 in Gengavalli Police Station alleging offence under Sections 279, 304 (A) (ii) and Section 3 read with 181 of Motor Vehicles Act against the accused for causing the death of the Ramesh and Anbumani alias Dhanasekaran in the road accident.

3. In the trial, the occurrence witness P.W.1 Chakravarthi who had lodged Ex.P1 complaint with the police deposed regarding the rash and negligence driving of the first accused. While the deceased Ramesh and another Anbumani alias Dhanasekaran (both died in the accident). All the 3 persons have travelled in the said two wheeler vehicle and caused the accident in which those two persons have died.

4. Before the trial Court, P.W.2 to P.W.9 were examined and Exs.P1 to P12 were marked and M.O.1 and M.O.2 were marked. No oral and documentary evidence for the defense.

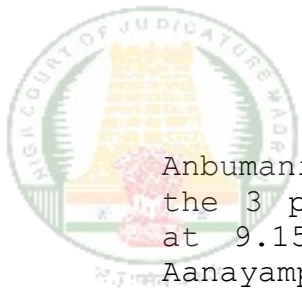
5. The trial Court on consideration of oral and documentary evidence laid the conviction and sentence as stated supra on appeal in C.A.No.29/2015, the learned III Additional District cum Session Judge, Salem confirmed the same and hence the revision.

6. The learned counsel for the revision petitioner contended that the trial Court ought not to have believed the evidence of P.W.1 and failed to appreciate Ex.P12 Rough Sketch as to ascertain the manner of the accident has projected by the prosecution.

7. Mr.R.Vinoth Raja, the learned Government Advocate (Crl.Side) has made submission in support of the judgment of the trial Court and the Courts below.

8. Heard both sides and perused the records.

9. The case of the prosecution is brief is that the accused Jaisankar was driving the two wheeler having Registration No.TN 30 W 8950 TVS Star City stating while the deceased Ramesh and



Anbumani alias Dhanasekaran has seated behind and thereby all the 3 persons have travelled in the said vehicle on 05.03.2007 at 9.15 a.m on the Veeraganur to Gengavalli Main Road near Aanayampatti Kalathumedu Division. As the vehicle was driven by the first accused in a very rash and negligent manner proceeding towards western side due to the rash and negligence on the road turn he has not taken sufficient caution and thereby dashed against the fencing stone (முட்டுக்கல்லு) placed on the western side.

10. In view of the collusion, two persons seated behind the accused are thrown out from the two wheeler vehicle and dashed against the tamarind tree and died due to the succumbed to the injuries sustained to the accident. Since the accused is not having licence the above said charges have been laid. In order to the charges P.W.1 was examined as an occurrence witness.

11. After going through the evidence of P.W.1 along with Ex.P1 complaint which has culminated into Ex.P9 F.I.R, I find that the manner of the accident and the way in which, the accused as drove the two wheeler in a rash and negligent manner and not even taking due care about the slight turn on the right hand side of the road and unable to control himself as though the vehicle in a reckless manner with high speed and want to negligence went and dashed against the fencing stone one of the 3 fencing stone and thereby two persons have thrown out of the vehicle and had injuries, There is nothing in the cross-examination to disbelieve his evidence.

12. P.W.2 is the father of the deceased Ramesh. While P.W.3 is the brother of P.W.2. The brother of P.W.4 is a brother of another deceased Anbumani. The Co-employee of P.W.5 and P.W.6 are turned hostile. P.W.6 Doctor who had issued Exs.P3, P4 and P5 accident register for revision petitioner, first deceased and second deceased respectively and issued post mortem certificate Exs.P7 and P8 for the two deceased persons have categorically stated that those deceased died due to the injuries sustained with the road accident. Ex.P15 is a photographer who has taken photos M.O.1 and M.O.2.

13.P.W.8 Motor Vehicle Inspector has categorically stated that the revision petitioner/accused is not having any driving license. It remains unchallenged in the cross-examination nor any document has been filed before the Court to show the revision petitioner/accused having a valid driving license to drive the two wheeler on the date of the accident also assumes significance.

14. On analyzing both oral and documentary evidence discussed supra, I find that the finding rendered by the Courts



below that due to the rash and negligent driving in such a casual manner and driving the vehicle without any license and also travelled 3 persons in the two wheeler that was not permitted under the Motor Vehicle Act and the accident has taken place only due to the rash and negligent driving of the revision petitioner appears to be just and reasonable does not suffer from any illegality or irregularity.

15. I have perused Ex.P12 rough sketch filed by the Investigation Officer P.W.19. Even in the rough sketch, a clear picture has been given as to the manner to the road and the position of the fencing stone placed in the above.

16. Taking into consideration the rough sketch and also the oral evidence of P.W.1, I find that the revision petitioner ought to have been more negligent and caution should have exercised more care and caution in riding the vehicle in such a road and hence, the contention raised by the revision petitioner stands negatived.

17. Accordingly, the conviction passed by both the Courts below on the above said sections are hereby confirmed.

18. On the point of quantum of sentence all are heard.

19. Taking into consideration the younger age of the petitioner and also being the first offender, I am inclined to reduce the sentence for 304(A) alone to 6 months Rigorous Imprisonment for both the counts and the sentence shall run concurrently and in all other aspects the fine imposed by the other are hereby confirmed.

20. In the result, this Criminal Revision Petition is partly allowed to the limited extent indicated above.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional District and Sessions Judge,
Salem



2. The Chief Judicial Magistrate, Salem

3. The Judicial Magistrate No.2 cum
(Special Judicial Magistrate No.1,
Sandalwood cases, Athur, Salem)

4. The Sub-Inspector of Police,
Gengavalli Police Station
Attur, Salem

5. The Public Prosecutor,
High Court, Madras

6. The Superintendent
Central Prison,
Coimbatore.

order in
Crl.R.C.No.831 of 2015

VBM (CO)
K.RK. (06.10.2021)