



Bail Slip

The Petitioner/1st Accused namely Ramaraj S/o.Thyagarajan was directed to be released on bail by order of this Court dated 02.02.2017 made in CrI.M.P. No. 11471/2016 in CrI.R.C.No.1287/2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2021

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

CrI.R.C.No.1287 of 2016

Ramaraj

...Petitioner/1st Accused

Vs.

State by Inspector of Police,
Vellore North police station (L&O)
Vellore District.
(Crime No.470 of 2006)

...Respondent/Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C against the judgment of the learned Principal District and Sessions Judge, Vellore, Vellore District dated 20.07.2016 and made in C.A.No.53 of 2014 confirming the conviction and sentence passed by the learned Judicial Magistrate No.IV, Vellore, Vellore District by judgment dated 10.06.2014 and made in C.C.No.10 of 2008.

For Petitioner : Mr.V.Krishnamurthy

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 Principal District and Sessions Judge dated 20.07.2016 made in C.A.No.53 of 2015 confirming the judgment of the learned Judicial Magistrate No.IV, Vellore dated 10.06.2014 in C.C.No.10 of 2008.

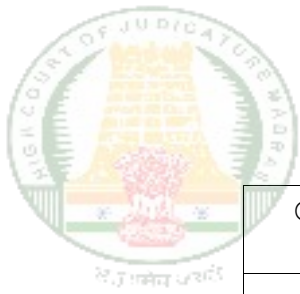


2. The case has arisen out of an accident occurred at Vellore bus stand. As per the case of the prosecution on 28.06.2006 at about 7.30.p.m, when the passengers were waiting for getting into the bus, the first accused, who is not an employee of the Tamil Nadu State Corporation, driven the bus bearing Registration No.TN2 N 1675 in a rash and negligent manner and caused the death of three persons and caused injuries to three persons.

3. On the complaint-statement given by PW1/Vijayakumar, PW18-Manikandan, Sub Inspector of Police registered a case in Crime No.470 of 2006 of Vellore North (L & O) police station under Section 279, 338(2 counts), 337, 304A(3 counts) IPC and prepared the FIR. He conducted the inquest on the body of the deceased Balu and prepared inquest report. Thereafter, PW16-Ayyavu, Inspector of Police took up the investigation. He went to the place of occurrence and prepared the observation mahazar(Ex.P2) and rough sketch (Ex.P16). He examined the witnesses and recorded their statements. He conducted the inquest on the bodies of the deceased Sathyakavi and Dhanalakshmi and prepared inquest reports. Thereafter, the bodies were sent for postmortem. On the same day, he arrested the accused at 1.30.p.m and recorded his confession statement and thereafter, PW19 continued the investigation. He enquired rest of the witnesses and the doctor who conducted postmortem and got postmortem certificates. He obtained Motor Vehicle Inspector report also after examining the Motor Vehicle Inspector. After completing investigation, he filed the charge sheet against the first accused for the offence under Sections 279, 337, 338(2 counts) and 304A(3 counts) IPC and against the second and third accused for the offence under Sections 337, 338(2 counts) and 304A(3 counts) IPC. After the case was taken on file and after completing the legal mandates, when the accused were questioned, they pleaded innocence and claimed to be tried. Hence, the trial was conducted.

4. During the course of trial, on the side of the prosecution, 19 witnesses have been examined as PW1 to PW19 and 21 documents were marked as Exs.P1 to P21. On the side of the defence, no witness has been examined. However, one document has been marked as Ex.D1.

5. After completing the trial and after considering the materials available on record, the learned trial Judge acquitted A2 and A3 and found the first accused guilty for the offence under Sections 279, 337, 338(2 counts) and 304A (3 counts) IPC and convicted and sentenced him as under:-



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Offence under Sections	Punishment Imposed on the accused
279 IPC	To pay a fine of Rs.500/-
338 IPC (2 counts)	To pay a fine of Rs.750/- for each count
337 IPC	To pay a fine of Rs.500/-
304(A) IPC (3 counts)	To undergo one year Rigorous Imprisonment and a fine of Rs.2000/- for each count of the offence, in default, to undergo a simple imprisonment for a period of two months for each offence

6. Aggrieved over that, he preferred an appeal in C.A.No.53 of 2014 and the same was also dismissed on 20.07.2016. Challenging the said judgment, the present revision case has been filed by the accused.

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

8. Point for consideration:

Whether the conviction and sentence of the accused for the offence under Sections 279, 337, 338(2 counts) and 304A(3 counts) 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 rash and negligence on the part of the accused was not proved; it is also not proved before the trial Court that it was the accused, who had acted as driver at the relevant point of time; without proving the rash and negligent driving, a person cannot be convicted for the offence under Section 304(A) IPC. He cited the decision of the Hon'ble Supreme Court reported in 1968 AIR 829 (Suleman Rehiman Mulani & Another Vs. State of Maharashtra) in support of his above contentions.

10. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that the accused who was the brother of third accused had gone to the driver seat and started the bus and hit against the persons randomly and in



which three persons got injured and three died; the act of the accused speaks for itself and the Courts are right in convicting the accused for the offence under Section 304(A) IPC.

11. This is a strange case, in which the bus belonging to State Transport Corporation was not driven by its driver at the time of accident. There is no dispute about the fact that the vehicle involved in the accident was the bus belonging to Tamil Nadu State Transport Corporation and it was parked in the Vellore Bus stand. The injured and the deceased were the passengers, who were waiting in the bus stand.

12. It is claimed by the learned counsel for the defence that the prosecution has not established the relationship between the third accused and the first accused. He invited the attention of this Court to the letter written by the Investigation Officer (Ex.D1) in which, the accused has been shown as a passenger of the bus. It is to be noted that the second and third accused were the driver and the conductor of the bus. What has to be actually found is whether it was the accused, who had handled the bus and whether the accident has been caused due to his negligence.

13. PWs1 to 3 were not only the injured witnesses, but they are the eye-witnesses. Their evidence would reveal that while they were standing in the bus stand, the vehicle, which was handled by the accused, was hit against the persons, who were waiting for the bus. The learned trial Judge believed the ocular account of the eye witnesses, who also got injured in the accident. PW2 is the witness, who not only got injured but also lost his child in the accident. PW3 has lost his son and daughter-in-law in the occurrence. PW5, who was working as a Security in the bus stand deposed that immediately after the occurrence, the accused was secured by the public and handed over to the security. I find no reason to reject the evidence of the above witnesses, in the absence of any motive they had against this accused.

14. This is a kind of a case in which the prosecution need not establish the rash and negligent driving of the accused. Because the accused is a stranger to the bus and the audacity or curiosity he had to handle the bus caused this accident. He is not a professional driver. The very act of the accused to get into the bus for starting it, is an act of negligence. Hence, there is no force in the argument that the prosecution did not establish the rash and negligent driving of the accused. The accused was seen by the injured witness and he



was secured by the public and caught red handed and handed over to PW5-Security. The accused was not authorised to handle the bus. He was seen alighting down hurriedly from the driver seat by some passengers. Since the evidence of witnesses could infuse the confidence of the Court, the Trial Court had chosen to accept the same and it was upheld by the Appellate Court. The accused, who does not know driving, out of curiosity got into the driver seat and started the bus. That would naturally go directionless and hit against innocent people, who would be waiting in the bus stand for various reasons. It is a very sad incident in which three lives were lost and three people got injured. It has been already observed that PWs 2 and 3 are not injured, but they had also lost the kiths and kins in the accident.

15. Since the evidence available on record is concrete and clear and proves the guilt of the accused, I find no reason to interfere with the judgment of the Courts below. However, the learned counsel for the petitioner submitted that some indulgence may be shown in the quantum of sentence. It is seen that the accused was found guilty for the offence under Section 304(A) IPC (3 counts) and he was convicted and sentenced to undergo Rigorous Imprisonment for a period of One Year and a fine of Rs.2,000/- for each count. It is submitted by the learned counsel for the petitioner that the petitioner has paid the fine amount in its entirety.

16. In my opinion, the act of the accused is not only negligent but also mischievous. The punishment imposed by the Courts below sufficiently deterrent and in my view the accused does not deserve any reduction in the punishment.

17. In the result, this Criminal Revision Case is dismissed. The judgment of the learned Principal District and Sessions Judge, Vellore, Vellore District dated 20.07.2016 and made in C.A.No.53 of 2014 is hereby confirmed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Vellore, Vellore District.

2. The Judicial Magistrate No. IV,
Vellore.

3. The Chief Judicial Magistrate
Vellore (for information)

4. The Inspector of Police,
Vellore North police station (L&O)
Vellore District.

5. The Superintendent, Central Prison, Vellore

6. The Public Prosecutor,
High Court of Madras,
Chennai-600 104.

Copy to

The Section Officer
Criminal Section
High Court, Madras 104.

Crl.R.C.No.1287 of 2016

GPL(CO)
SP(08/02/2022)