



BAIL SLIP

The Petitioner/Accused namely Suresh, S/o.Veerasamy was directed to be released on bail as per order dated 01.12.2016 made in CrI.M.P.No.12644/2016 in CrI.R.C.No.1460/2016 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.1460 of 2016

Suresh ...Petitioner/Appellant/Accused
Vs
State
Represented by
The Inspector of Police,
Neyveli Thermal Police Station,
(Crime No.93 of 2009). ...Respondent/Respondent/Complainant

PRAYER: This Criminal Revision Case is filed under Section 397 of Cr.P.C., against order in Criminal Appeal No.39 of 2016, on the file of III Additional District and Sessions Judge, Cuddalore at Vriddhachalam, dated 07.10.2016, which confirmed the judgment and the sentence passed in C.C.No.87 of 2009 on the file of the District Munsif cum Judicial Magistrate at Neyveli, dated 24.11.2015.

For Petitioner : Mr.G.Surya Narayanan

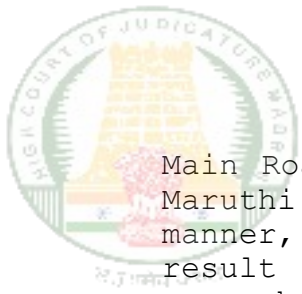
For Respondent : Mr.A.Gopinath
Government Advocate (CrI.Side)

O R D E R

This Criminal Revision Case has been filed by the petitioner challenging the judgment passed by the learned III Additional District and Sessions Judge, dated 07.10.2016 in CrI.A.No.39 of 2016, which confirmed the judgment passed in C.C.No.87 of 2009 by the learned District Munsif cum Judicial Magistrate dated 24.11.2015.

2. The short facts of the case are as under:

On 27.03.2009, at about 8.15 a.m., a child, aged 3 years, by name Aakash, who was the son of PW1 was answering his nature's call, close to the fence located in front of his house at First



Main Road, Block No.28. At that time, the accused drove his LMV Maruthi Van bearing Reg.No.TN31 AZ 2345 in a rash and negligent manner, without any horn and dashed against the child and as a result of which, the child got injured. Later, the child succumbed to the injuries. Hence, a complaint was given by PW1, who is the father of the child, and on the basis of the said complaint, a case was registered in Crime No.93 of 2009 by Neyveli Police under Sections 279 and 304-A IPC and FIR, Ex.P5 was prepared. After registration of FIR, PW9-Karunanithi took up the investigation and went to the place of occurrence and prepared observation mahazar and rough sketch. He conducted the inquest on the body of the deceased at Neyveli Government General Hospital and prepared the inquest report. He also conducted the post mortem on the body of the deceased. He sent the vehicle involved in the accident to the Motor Vehicle Inspector. After examining all the witnesses and after obtaining necessary certificates and completing the investigation-PW9, he filed the final report against the accused for the offences under Sections 279 and 304-A IPC.

3.After the case was taken on file and complying all the legal mandates, the accused was questioned with regard to the incriminating materials found in the evidence adduced on the side of the prosecution. The accused denied the involvement in the offence.

4.During the course of trial, on the side of the prosecution, 9 witnesses have been examined as PW1 to PW9 and 8 documents were marked as Exhibits P1 to P8. On the side of the defence, no witness was examined and no documents were marked.

5.After conclusion of the trial and on considering the materials on record, the trial Court found the accused guilty for the offence under Sections 279 and 304-A IPC and convicted him under Section 255(2) of Cr.P.C., and convicted and sentenced to undergo Simple Imprisonment of two months and to pay a fine of Rs.500/- for the offence under Section 279 of IPC and to undergo Simple Imprisonment of one year and to pay a fine of Rs.2,000/- for the offence under Section 304-A IPC, in the event of failure to pay the fine amount, the accused shall undergo one month simple imprisonment for each default and the period of detention undergone by the accused, if any, shall be set off against the sentence of imprisonment under Section 428 of Cr.P.C.

6.The First Appeal preferred by the appellant in Cr1.A.No.39 of 2016 was also dismissed by confirming the judgment of the learned Judicial Magistrate. Aggrieved over the said dismissal order passed by the learned II Additional District and Sessions Judge, Cuddalore, the accused has preferred this revision before this Court.



edge of the street.

12.The learned counsel for the petitioner submitted that while halting the vehicle, the accused would not have driven the vehicle in a high speed. It is not necessary to drive the vehicle in a high speed while parking. But, accidents can occur if the car drivers do not exercise caution to see whether any one was present in front or backside of the vehicle.

13.Had he noticed the child sitting on the edge of the street, he would not have taken the vehicle in a rash and negligent manner and hit the child. The parents of the child would have been in utter shock and it is quite possible that they would give conflicting facts in that poignant state of mind. PW2 who is the brother of PW1 has stated that the accused had driven the vehicle in a rash and negligent manner and hit against the child.

14.I do not find any reason to reject the evidence of PW2, who had witnessed the occurrence and especially when PW2 or his family does not have any motive against the accused to falsely implicate him in this case. The Courts below have rightly appreciated the evidence of the eye witnesses and the features of the place of occurrence and found the accused of guilty for the offence under Section 304-A IPC.

15.However, the learned counsel for the petitioner submitted that considering the family situation of the accused, the punishment should be modified to that of fine alone. But the offences committed under Section 304-A IPC, where valuable lives are lost cannot be taken to lightly for the purpose of sentencing.Hence, the accused cannot be imposed with fine alone. However, the family situation of the petitioner can be considered in order to reduce the sentence.

16.In the result, this Criminal Revision Case is partly allowed and the judgment of the First Appellate Court is modified to the extent that the sentence of imprisonment for the offence under Section 304-A of IPC is reduced from one year Simple Imprisonment to three months Simple Imprisonment and the fine amount is enhanced from Rs.2,000/- to Rs.10,000/-.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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