



BAIL SLIP

The Appellant/ Petitioner accused single namely Mr.Senthil Kumar S/o. Muthukumar aged 30 years old was directed to be released on bail as per the order of this Court dated 21.03.2016 made in CrI.MP.No.3218 of 2016 in CrI.R.C.No.487 of 2016 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

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

CrI.R.C.No.487 of 2016

M.Senthil Kumar

...Petitioner/Accused

Vs.

State rep. by

The Inspector of Police,

R-4, Pondy Bazar Traffic Investigation Department,

Chennai - 600017.

(Crime No.96/TN1/13)

...Respondent/Complainant

Criminal Revision Case filed under Sections 397 & 401 Cr.P.C. seeking to call for the records of the IV Metropolitan Magistrate, Saidapet, Chennai in C.C.No.1757 of 2013 and the conviction was confirmed by the II Additional Sessions Judge, Chennai, made in CA.No.102 of 2015 dated 14.03.2016 and set aside the same

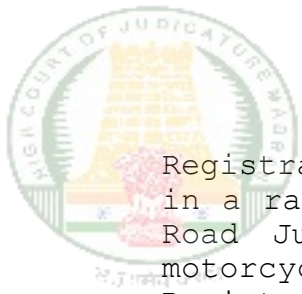
For Petitioner : Mr.V.Murugesan

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

ORDER

This Criminal Revision Case has been preferred challenging the judgement of the learned II Additional Sessions Judge dated 14.03.2016 passed in C.A.No.102 of 2015, confirming the judgement of the learned IV Metropolitan Magistrate, Chennai, dated 13.04.2015 passed in CC.No.1757 of 2013.

2. The case of the prosecution is that on 18.02.2013 at about 6.30 am, the accused was driving his bus bearing



Registration No.TN-01-AS-8926 on Thyagaraya Salai in T.Nagar in a rash and negligent manner. When he was coming near Boag Road Junction from south to north, he dashed against the motorcycle coming from east-west. The motorcycle bearing Registration No.TN-09-BD-4224 and which was involved in the accident was ridden by the deceased Veerappan and other deceased Rajendran was a pillion rider. Due to the accident, both the rider and the pillion rider of the motorcycle got seriously injured and the pillion rider Rajendran died on the spot. The driver of the motorcycle namely Veerappan was admitted in the Government Hospital for treatment but on 25.02.2013 at about 5.45 am, he succumbed to his injuries.

3. On the complaint given by P.W.8 - Santhakumar, a case was registered by P.W.10 - Nandhakumar Johnson, Inspector of Police, in Crime No.96/TN1/13 of Pondy Bazaar Traffic Police Station. P.W.10 took up the investigation, went to the place of occurrence, prepared the observation Mahazar and rough sketch in the presence of the witnesses and thereafter, he examined the witnesses and recorded their statement; after he got the death intimation of the respective deceased, he went to the hospital and conducted inquest on the bodies of the deceased; thereafter, he sent their bodies for post-mortem; the accused was arrested and sent for remand; he also sent the vehicles involved in the accident for the examination by the Motor Vehicle Inspector and got his report; he examined the doctor who conducted the post-mortem and got the post-mortem certificate; after concluding his investigation, he filed a charge sheet against the accused for the offences under Sections 279 and 304(A) (2 counts) IPC.

4. After the case was taken on file and the copies were furnished, the accused was questioned. Since the accused pleaded innocence and claimed to be tried, the trial was conducted.

5. On the side of the prosecution, 10 witnesses were examined as P.W.1 to P.W.10 and 13 documents were marked as Exs.P1 to P13. On the side of the accused, no witness was examined and no document was marked.

6. At the conclusion of the trial and on consideration of the evidence available on record, the learned trial Judge found the accused guilty for the offence under Sections 279 & 304(A) (2 counts) IPC. However, the accused was convicted only for the offence under Section 304(A) (2 counts) and sentenced to undergo one year Rigorous Imprisonment and imposed a fine of Rs.1000/- each in default to undergo three months Simple Imprisonment.

7. Thereafter, the appeal filed by the accused challenging the judgement of the trial Court was also dismissed. Aggrieved over that, the accused has preferred this present revision case.



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assembly, both the hand bars, both sides of the petrol tank, right side silencer and other parts of the motorcycle on the left side were also damaged.

12.1. The heavy damages seen on the motorcycle on both sides would show that the motorcycle was heavily hit by the bus driven by the accused. Since the damages on the bus were also found to be present in the front side and there was no mechanical failure, it only will confirm that the driver of the bus was driving the bus without proper control and without noticing the vehicles coming on both sides. Since the bus was proceeding from south to north, the driver seated on the right side should have seen the vehicle coming from east-west direction near Boag Junction. Had he noticed the two-wheeler, he could have applied brake or slowed down his speed. The failure on the part of the driver to manage the vehicle tactfully, in the said junction, caused the accident and in which, two valuable lives were lost.

12.2 Despite it is claimed by the learned counsel for the petitioner that the accident had not occurred due to any negligence on the part of the accused, the evidence available on record, the damages present on the vehicles involved in the accident and the place of occurrence as seen from the rough sketch would only confirm that the accident had occurred due to the negligence of the driver of the bus. So, the learned trial Judge has rightly appreciated the evidence on record and found the accused guilty.

12.3 But it is strange to note that despite the accused was found guilty by the learned trial Judge for the offences under Sections 279 and 304(A) (2 counts) IPC, the learned Magistrate has not chosen to punish the accused for the offence under Section 279. The First Appellate Court has also confirmed the trial Court judgement and neither the prosecution had taken any steps to file a cross revision on this point. Hence, it is too late for this Court to interfere on that aspect.

13. Further, the learned counsel for the petitioner submitted that the accused is a young man and he has three female children and some indulgence should be shown in the quantum of sentence.

14. In road traffic accidents, the person who caused the accident cannot have any intention to cause damage to the vehicle or cause injuries or death of persons. However, his criminal negligence had led to loss of lives which is irreparable. The absence of intention and the family situation of the accused and the absence of any other previous conviction can serve as litigating factors to some extent.

In the result, this Criminal Revision Case is partly allowed and the judgement of the II Additional Sessions Judge,



Chennai, made in CA.No.102 of 2015 dated 14.03.2016 is modified to the effect that the accused is found guilty for the offence under Section 304 A (2 counts) and he is convicted and sentenced to undergo Six months Simple Imprisonment each and a fine of Rs.1,000 each. The sentence shall run concurrently if the fine amount already paid by the accused need not to be paid again. The trial Judge is directed to issue the warrant to secure the accused for sending him to the prison to serving the sentence.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The IV Metropolitan Magistrate,  
Saidapet, Chennai.
- 2.The Chief Metropolitan Magistrate,  
Egmore, Chennai.
- 3.The II Additional Sessions Judge,  
Chennai.
- 4.The Public Prosecutor,  
High Court, Chennai.
- 5.The Inspector of Police,  
R-4, Pondy Bazar Traffic Investigation Department,  
Chennai - 600017.
- 6.The Superintendent,  
Central Prison,  
Puzhal, Chennai - 66.

+1cc to Mr.M.Murugesan, Advocate SR. No.65748

Cr1.R.C.No.487 of 2016

PCH (CO)  
PR (08/02/2022)