



BAIL SLIP

That the Appellant/Accused namely Senthil Kumar S/o Srinivasan was released on bail as order of this Court Dated 09/05/19 made in Crl.M.P.No.6543/2019 in Crl Rc No.428/19 of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.428 of 2019

Senthil Kumar

... Appellant/ Accused

Vs.

State Rep. by
The Inspector of Police
N2, Kasimedu Traffic Investigation,
Chennai.

... Respondent/Complainant

Prayer : Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the Judgment dated 19.02.2019 in C.A.No.549 of 2018 on the file of learned XVIII Additional Sessions Judge at Chennai, confirming the sentence imposed by the learned III Metropolitan Magistrate, George Town, Chennai, Dated 01.10.2018 made in C.C.No.379 of 2018 and acquit the petitioner.

For Petitioner : Mr.S.Panneer Selvan (NA)

For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

ORDER

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the Judgment dated 19.02.2019 in C.A.No.549 of 2018 passed by the



learned XVIII Additional Sessions Judge, Chennai, confirming the conviction and sentence imposed by the learned III Metropolitan Magistrate, George Town, Chennai, by order dated 01.10.2018 in C.C.No.379 of 2018 and acquit the petitioner.

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2. The matter is pending from the year 2019. Despite given sufficient opportunities, there is no representation on the side of the petitioner. The petitioner has been convicted for the offence under Section 304 (A) IPC and 184, 146 read with 196, 3 read with Section 181 of Motor Vehicle Act. Considering the fact that the revision is pending for 2 years and neither the petitioner, nor his Counsel are co-operating for the disposal of the revision, this Court is inclined to dispose the revision on merit.

3. The case of the prosecution is that on 07.01.2018 at about 20.30 hrs. at S.N.Chetti Salai, near Police Check Post, the accused drove the motor cycle in a rash and negligent manner without licence and insurance to his vehicle bearing Regn.No.TN 01 AE 1256 from south to north and dashed on the motor cycle bearing Regn.No.TN 09 AW 0484 due to which, the rider of the motor cycle Nageswararao sustained injury on his head and despite treatment being given at Stanley Hospital, he died on 10.01.2018 at 10.40 a.m. Hence, the complaint.

4. The respondent police registered the case against the petitioner for the offence under Sections 304(A) IPC and Sections 184, 146 read with 196, 3 read with 181 of Motor Vehicle Act and after investigation laid charge sheet before the III Metropolitan Magistrate, George Town, Chennai. The learned Magistrate after completing the formalities and trial, convicted the petitioner for the offence under Sections 304(A) IPC and Sections 184, 146 read with 196, 3 read with 181 of Motor Vehicle Act and sentenced to undergo 6 months rigorous imprisonment and to pay fine of Rs.2000/- in default to undergo 1 month simple imprisonment for offence under Section 304(A) IPC and imposed fine of Rs.1000/- in default to undergo 2 weeks simple imprisonment for the offence under Section 184 of Motor Vehicle Act and also imposed fine of Rs.1000/- in default to undergo 2 weeks simple imprisonment for the offence under Section 146 read with 196 of Motor Vehicle Act, and further imposed fine of Rs.500/- in default to undergo 2 weeks simple imprisonment for the offence under Section 3 read with 181 of Motor Vehicle act. Challenging the said Judgment of conviction and sentence, the petitioner filed a criminal appeal before the Principal Sessions Judge, Chennai. The learned Principal Sessions Judge, Chennai, taken the appeal on file in CrI.A.No.549 of 2018 and made over the case to the XVIII Additional Sessions Judge, Chennai, and the learned XVIII Additional Sessions Judge after hearing the arguments advanced



on either side and considering the material evidence, dismissed the appeal and confirmed the conviction and sentence passed by the learned III Metropolitan Magistrate, George Town, Chennai. Challenging the said Judgment of dismissal of appeal, the petitioner has filed the present revision before this Court.

5. Heard Mr.S.Sugendran, learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials on record.

6. As already stated, none appeared on behalf of the petitioner and there is no co-operation on the side of the petitioner and that the revision is pending for two years, this Court disposes the case on merit after hearing the learned Government Advocate (Crl. Side) appearing for the respondent police.

7. In this case, in order to substantiate the charges, on the side of the prosecution as many as 12 witnesses were examined as P.W.1 to P.W.12 and 14 documents were marked as Exs.P.1 to P.14. Out of the 12 witnesses, P.W.1 is the eyewitness and he has spoken about the manner of accident. Subsequently, the vehicle was produced before the Motor Vehicle Inspector and he has given opinion wherein, it is stated that the accident is not due to mechanical defect of the vehicle. Further, the evidence of the doctors who admitted the injured in the hospital and gave treatment and subsequently, who conducted the post mortem and issued the death certificate shows that the victim died due to the accidental injuries. Since, there was eyewitness in this case, the trial Court found that the prosecution proved its case beyond reasonable doubt through the eyewitness and medical evidence that the accident had happened only due to rash and negligent driving of the petitioner. Therefore, under these circumstances, this Court does not find any merit in the revision and there is no perversity in the appreciation of evidence by the Courts below. Though, during cross examination, the petitioner had pointed out certain contradictions, the said contradictions are not material contradictions which would go into the root of the prosecution. Therefore, the trial Court and the appellate Court have rightly appreciated the evidence and given findings that the accident had happened only due to the rash and negligent driving of the petitioner due to which, the deceased died and therefore, rightly convicted the petitioner.

8. The eyewitness/P.W.1 has clearly spoken about the accident and this Court does not find any perversity in the appreciation of the evidence by the Courts below. Therefore, there is no merit in the revision and the revision is liable to be dismissed.



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9. Accordingly, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The III Metropolitan Magistrate,
George Town, Chennai,
2. The XVIII Additional Sessions Judge
Chennai,
3. The Chief Metropolitan Magistrate,
egmore, Chennai
4. The Inspector of Police
N2, Kasimedu Traffic Investigation,
Chennai.
5. The Public Prosecutor Officer, High Court, Madras.
6. The Section Officer, Criminal Section, High Court, Madras.

Criminal Revision Case No.428 of 2019

MG(CO)
CT(28/09/2021)