



BAIL SLIP

The Appellant/Accused namely Ramesh, S/o.Radhakrishnan was directed to be released on Bail as per Order of this Court, dated 11/03/2014 made in M.P.No.1 of 2014 in CRL.R.C.No.302 of 2014 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRL.R.C.NO.302 OF 2014

Ramesh

... Petitioner/Accused

.Vs.

The State Rep. by
The Inspector of Police,
Arani Town Police Station,
Arani, Tiruvannamalai District.
[Crime No.120/2007]

... Respondent/Complainant

PRAYER:-

Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., to set aside the judgment of conviction and sentence passed by Sessions Court at Tiruvannamalai dated 11.02.2014 made in C.A.No.1/2010 confirming the judgment of conviction and sentence passed by Judicial Magistrate, Arani dated 22.12.2009 made in C.C.No.334 of 2007 and acquit the petitioner.

For petitioner : Mr.C.Samivel
Legal-Aid-Counsel

For Respondent : Mr.S.Vinoth Kumar
Public Prosecutor
(Crl.Side)



O R D E R

The convicted accused is the revision petitioner herein.

2. The respondent-police, after investigation in Crime No.120 of 2007, filed the final report against the accused for the offences under Sections 279 and 304 I.P.C. After observing the formalities, the case was numbered as C.C.No.334/2007. After observing the legal formalities, the prosecution examined P.W.1 to P.W.10, and marked Exs.P1 to P8 and no material object was marked. The trial Court, based upon the evidence let in, came to the conclusion and found the accused guilty of the offences under Sections 279 and 304-A I.P.C. Accordingly, the trial Court convicted the accused to undergo Simple Imprisonment for six months and also to pay a fine Rs.1000/-, in default, to undergo Simple Imprisonment for 15 days under Section 279 I.P.C and also convicted him and sentenced to undergo Simple Imprisonment for two years and also to pay a fine of Rs.4,000/- in default to undergo Simple Imprisonment for three months under Section 304-A I.P.C.

3. To substantiate the charges, the prosecution examined P.W.1 to P.W.10, and marked Exs.P1 to 8 and no material object was marked and no one was examined on the defence side and no exhibits were marked.

4. Based upon the oral and documentary evidence, the trial Court has come to the conclusion that the prosecution has proved the charges under Section 279 and 380 I.P.C, against the accused beyond reasonable doubt and accordingly, convicted the accused as detailed by its judgment dated 22.12.2009.

5. On appeal, in Crl.A.No.1/2010 the learned Session Judge confirmed the conviction and sentence and hence this revision is filed by the accused.

6. Heard the learned Legal-Aid-Counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

7. The case of the prosecution is that On 10.07.2007, the deceased Senthil Kumar went to the Rice Mill on the previous night, he asked him to go and get the deceased from the Rice Mill, the witness Dharmalingam, went to the Rice Mill and both are them proceeded towards the Chetpet-Arani Road on the North side of the road in two vehicles. The deceased drove his vehicle first then the witness Dharmalingam followed him while so, they where near the Subashkhan street. On the opposite side a lorry was driven by its driver by over speed and claimed the speed breaker at the time due to over speed the door of the cabin



opened and hit the forehead of the deceased Senthil Kumar so, the Senthilkumar fell down on the left side and sustained injuries on his skull lower jaw, forehead, and all over face. The accused alone drove the vehicle at the time of the accident then after the accident the accused got down the lorry and ran away from the spot. Hence, the accused is liable to be punished for the offences under Section 279 and 304-A I.P.C. Hence, the charge.

8. The accused is charged for the offences under Sections 279 and 304 I.P.C. The prosecution examined P.W.1 to P.W.10 and Exhibits P1 to P8 were marked and on one was examined on the defence side and no exhibits were marked.

9. P.W.1 Dharmalingam is the brother of the deceased Senthilkumar. So, it was told by their father that the deceased Senthilkumar went to their Rice Mill on the previous night of 10.07.2007. So, he asked him to go and get the deceased from the Rice Mill. Hence, P.W.1 went to the Rice Mill and both of them proceeded towards the Chetpet-Arani Road on the North side of the road in two vehicles. The deceased drove his vehicle first. Then P.W.1 followed him. While so, when they were nearing Subashkhan Street, on the opposite side, a lorry, driven by its driver by over speed, rammed the speed breaker and at the time due to over speed, the door of the cabin opened and hit the forehead of the deceased Senthil Kumar.

10. P.W.7 Motor Vehicle Inspector had issued Ex.P4 stating that the offending vehicle was having Registration No.TN 25 D 5805 and issued Ex.P5 report. It is seen that the accident has not taken place due to any mechanical defect as per the version of P.W.1. The vehicle was driven by the accused and hence the accused is a driver of the lorry having Registration No D.A.I 0533 and after the accident, the Motor Vehicle Inspector P.W.7 under Ex.P4 report stated that the accident has not occurred that due to any mechanical defect.

11. The victim initially sustained injury on the left forehead and P.W.6 Doctor Elangovan who had conducted Post-Mortem, issued Ex.P5 report stating that the deceased died due to the injuries sustained in motor vehicle accident. Thus, this Court finds that, on the date of the accident, the accused drove the lorry and sustained injury and due to the injuries in the motor vehicles accident, he succumbed to the injuries and the accident has not taken place due to any mechanical defect.

12. Now, the point for consideration is as to whether the accused had drove the vehicle in a rash and manner and it satisfies the ingredients of the charge under Section 304 of I.P.C.



13. From the evidence of P.W.1, the occurrence witness, it is seen that while P.W.1 was riding two wheeler, the deceased was driving as a pillion rider in the opposite direction and the horn was given by the accused and without noticing, the speed breaker in front, he caused the accident and in the process, the cabin door on the driver side opened and the deceased sustained injury on the forehead. Subsequently, he fell down and died on the spot. Hence from the description of the manner of the accident as spoken to by P.W.1, I find that there is no rash and negligence on the part of the accused who has driven the vehicle and charge framed under Section 304A I.P.C because he died. When that being the case, the charge under Section 304 I.P.C is made out.

14. In this view of the matter, I find that the prosecution has failed to prove by letting in positive evidence to show that the revision petitioner/accused drove the vehicle in the above said manner and hence in the absence of any positive evidence to prove the charge beyond reasonable doubt, benefit of doubt accused has to be given to the accused and both the charges under Sections 229 and 304A I.P.C. are not proved beyond reasonable doubt.

15. In the result, this Criminal Revision Petition is allowed. The conviction and sentence passed by the Courts below are set aside. He is acquitted of the charges. The bail bond, if any shall stand cancelled. The fine amount, if paid by him, shall be refunded.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge,
Tiruvannamalai.
2. -Do- Thro The Principal Session Judge,
Tiruvannamalai.
3. The Judicial Magistrate,
Arani.



4. -Do- Thro The Chief Judicial Magistrate,
Tiruvannamalai.

5. The Inspector of Police,
Arani Town Police Station,
Arani, Tiruvannamalai District.

6. The Superintendent of Police,
Central Prison,
Vellore.

7. The Public Prosecutor,
High Court, Madras.

Copy To:-

1. The Section Officer,
Criminal Section,
High Court, Madras.

2. The Secretary,
Legal Service Authority,
High Court, Madras.

CRL.R.C.NO.302 OF 2014

VSN-II (CO)
PBS/30/11/2021