

Bail Slip

This appellant/accused Karunanidhi, male, 43 years was already directed to be released on bail in and by the order of this Court dated 26/03/2014 and made in MP.No.1/2014 in Crl.RC.No.352 of 2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.02.2021

PRONOUNCED ON : 31.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Crl.RC.No.352 of 2014
(Through Video Conferencing)

Karunanidhi

: Petitioner

Vs

State by Inspector of Police,
Pallipalayam Police Station,
Namakkal.

: Respondent

Prayer:- This Criminal Revision Case has been filed, against the judgement of conviction and sentence, dated 23.12.2010, passed in CA.No.56 of 2009, by the Principal Sessions Judge, Namakkal, confirming the judgement of conviction and sentence, dated 20.07.2009 passed in CC.No.327/2007, by the Judicial Magistrate, Tiruchencode.

For Petitioner : Mr.C.D.Johnson

For Respondent : Ms.Kritika Kamal, GA

ORDER

1.This Criminal Revision Case has been filed, against the judgment of conviction and sentence, dated 23.12.2010, passed in CA.No.56 of 2009, by the Principal Sessions Judge, Namakkal, confirming the judgment of conviction and sentence, dated

20.07.2009 passed in CC.No.327, by the Judicial Magistrate, Tiruchencode, thereby convicting and sentencing the Petitioner/Accused for the offence under Section 279 of IPC to pay a fine of Rs.1000/-, in default to undergo Simple Imprisonment for one week and for the offence under Section 304A of IPC to undergo Simple Imprisonment for six months and to pay a fine of Rs.2,000/-, in default to undergo one week Simple Imprisonment.

- 2.The Petitioner/Accused was charge sheeted for the offences under Sections 279 and 304A of IPC in respect of the accident took place on 25.04.2007 at 13.20 hours, alleging that at the relevant point of time, when one Karuppayeeammal, the victim, was going by walk along with her son, to Pallipalayam Annai Gas Company, on the East-West Road, on the northern side of the Road, the MSR Bus, bearing Reg.No.TN 34 D 2008, coming in the opposite direction, driven by the Petitioner/Accused in a rash and negligent manner, dashed against the victim, who succumbed to injuries in the Hospital after five days.
- 3.The case was taken on file in CC.No.327, by the Judicial Magistrate, Tiruchencode and necessary charges were framed. The accused had denied the charges and sought for trial. In order to prove the charges against the accused, the Prosecution had examined PW.1 to PW.11 and also marked Exs.P1 to P8. On completion of the evidence on the side of the Prosecution, the accused was questioned under Section 313 Cr.PC as to the incriminating circumstances found in the evidence of prosecution witnesses and the accused had come with the version of total denial and stated that he had been falsely implicated in this case. The Trial Court, after hearing the arguments advanced on either side and also looking into the materials available on record, found the Petitioner/Accused guilty and awarded punishments as stated above. On the appeal, the lower appellate court had confirmed the judgement of conviction and sentence of the Trial Court. Aggrieved over the same, this Criminal Revision Case has been filed.
- 4.This court heard the submissions of the learned counsel on either side.
- 5.The learned counsel for the Petitioner would submit that there is no evidence to prove that the Petitioner was driving the vehicle at the relevant point of time, that too in a rash and negligent manner and he had caused the accident and that the accident had occurred only due to negligence on the part of the victim in suddenly crossing road and hence, the impugned judgments of the courts below are liable to be set aside. The learned counsel has relied on the decision of the Honourable

Supreme Court reported in 2004 7 SCC 659 (State of Maharashtra Vs. Jagmohan Singh Kuldip Singh Anand).

6. On the other hand, the learned Government Advocate for the Respondent would submit that the Prosecution has proved its case, namely, the accident, the death of the deceased due to the injuries sustained by the victim in the accident and also the involvement of the accused in the crime, beyond all reasonable doubts, by adducing valid and cogent evidence and that both the courts below have considered the evidence both oral and documentary and concurrently held the Petitioner/Accused guilty of the offence and accordingly, convicted and sentenced the accused as stated above and there is no valid ground for acquitting the accused and hence, this Criminal Revision Case is liable to be dismissed.
7. I have given my careful and anxious consideration to the rival contentions put forward by either side and thoroughly scanned through the entire evidence available on record and also perused the impugned judgment.
8. Now, the question that arises for consideration is as to whether the Prosecution has proved its case beyond all reasonable doubts, by letting in valid and cogent evidence, for upholding the impugned judgment of the courts below or whether the Petitioner/Accused is entitled for acquittal for the reasons stated in the grounds of revision.
9. Ex.P1 is the complaint, dated 25.04.2007. Ex.P2 is the observation mahazar. Dated 25.04.2007. Ex.P3 is the report of the Motor Vehicle Inspector, dated 26.04.2007. Ex.P4 is the post mortem report. Ex.P5 is the First Information Report. Ex.P6 is the sketch and Ex.P7 is the alteration report. Ex.P8 is the inquest report.
10. On perusal of the entire evidence, it is seen that PW.1, son of the deceased, in his evidence, apart from stating that the Petitioner/Accused was the person, who drove the offending vehicle at the relevant point of time, has deposed about the manner, in which the accident had occurred, as projected by the Prosecution and stated that he took the deceased in an auto and admitted her in the Government Hospital, Erode and thereafter, he gave Ex.P1 complaint and that after five days, the deceased died. PW.2 and PW.3, who are the witnesses to the occurrence, have also deposed as to the manner of the accident as alleged by the Prosecution. PW.5 and PW.6 have also deposed about the accident.
11. PW.8, Motor Vehicles Inspector had examined the vehicle on 26.04.2007 and gave a report Ex.P3 to the effect that the accident had occurred not due to any mechanical defect in the vehicle.

- 12.As per Ex.P6, sketch drawn by the Police in the scene of occurrence, near the place of occurrence, on both sides, there are number of shops and the deceased was going from West to East on the northern side of the road and from the opposite direction, the offending bus came in a rash and negligent manner and dashed against the deceased and caused the accident. As per Ex.P6, the accident had happened on the northern side of the road, i.e. on the northern end of the road. When the bus is coming from East to West , the bus ought not to have been driven on the northern side of the road.
- 13.In the light of the entire evidence, both oral and documentary, this Court is of the considered view that the accident had happened due to the rash and negligent driving of the accused driver of the offending vehicle and also due to violation of traffic rules and accordingly, both the courts below had rightly convicted and sentenced the Petitioner/Accused, as stated above, by the impugned judgements and there is no illegality of perversity in the findings of the both the courts below.
- 14.However, since the Petitioner/Accused has been convicted for the offence under Section 304A of IPC, no separate conviction and sentence is required to be imposed for the offence under Section 279 of IPC. Further, in so far as the sentence of imprisonment under Section 304A of IPC is concerned, considering the age of the Petitioner/ Accused and taking into consideration the totality of the circumstances of the case, it needs to be modified.
- 15.In the result, this Criminal Revision Case is allowed in part. The conviction and sentence imposed under Section 279 of IPC is set aside. The conviction imposed under Section 304A of IPC is confirmed and the sentence of imprisonment imposed under Section 304A of IPC is reduced to three months. The sentence of fine imposed under Section 304A of IPC is also modified to the effect that a fine amount of Rs.3,000/- is imposed on the Petitioner/Accused. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

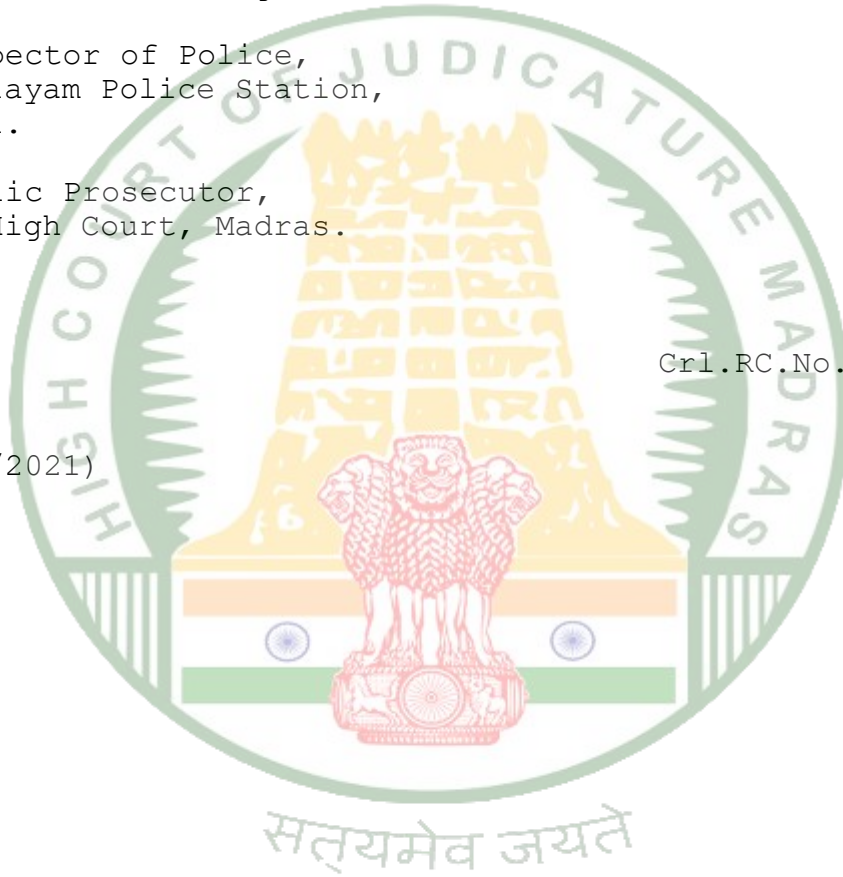
SRCM

To

- 1.The Principal Sessions Judge, Namakkal.
- 2.The Judicial Magistrate, Tiruchencode.
- 3.The Chief Judicial Magistrate, Namakkal.
- 4.The Inspector of Police,
Pallipalayam Police Station,
Namakkal.
- 5.The Public Prosecutor,
Madras High Court, Madras.

Order in
Crl.RC.No.352 of 2014

GSM(CO)
TE (29/04/2021)



WEB COPY