

BAIL SLIP

The Petitioner/Appellant namely Mr.Selvaraj, S/o.Kanappa Mudaliar, was directed to be released on bail as per the order of this Court dated 30.06.2014 in CrI.M.P.No.1 of 2014 in CrI.R.C.No.533 of 2014 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.02.2021

PRONOUNCED ON : 27.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CrI.RC.No.533 of 2014

(Through Video Conferencing)

Selvaraj

... Petitioner/Appellant

Vs

The State of Tamil Nadu,
Rep.by Sub Inspector of Police,
Mangalampettai Police Station,
Virudhachalam.

... Respondent/Respondent

Prayer:- This Criminal Revision Case has been filed, against the judgement of conviction and sentence, dated 21.12.2012, passed in CA.No.27 of 2012, by the III Additional District and Sessions Judge, Cuddalore, confirming the judgement of conviction and sentence, dated 05.06.2012, passed in CC.No.4 of 2006, by the Judicial Magistrate II, Virudhachalam.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Ms.Kritika Kamal, GA

ORDER

1.This Criminal Revision Case has been filed, against the judgement of conviction and sentence, dated 21.12.2012, passed in CA.No.27 of 2012, by the III Additional District Sessions Judge, Cuddalore, confirming the judgement of conviction and sentence, dated 05.06.2012, passed in CC.No.4 of 2006, by the Judicial Magistrate II, Virudhachalam. thereby convicting and sentencing the Petitioner/Accused, for the offence under Section 279 of IPC to pay a fine of Rs.500/-, in default, to undergo Simple Imprisonment for one week and for the offence

under Section 337 of IPC to pay a fine of Rs.300/-, in default to undergo Simple Imprisonment for one week and for the offence under Section 304A of IPC to undergo Rigorous Imprisonment for six onths and to pay a fine of Rs.1,000/- in default, to undergo Simple Imprisonment for two weeks.

- 2.The Petitioner/Accused was charge sheeted for the offences under Sections 279, 337 and 304A of IPC in respect of the road accident took place on 14.10.2005 at 13.30 hours, alleging that at the relevant point of time, when PW.1, along with one Murugaiyan, as a pillion rider, was travelling in a bicycle from South to North, on the left side, at Mangalampet Bazar Road, Ulundurpet Main Road, in front of the Tea Shop, run by one Krishnasamy, the Mini Lorry, bearing Reg.No.TN-23-AA-9213, coming in the same direction, driven by the Petitioner/Accused in a rash and negligent manner, dashed against the back side of the bicycle, due to which, the pillion rider fell down on the right side and the rear left side wheel of the offending vehicle ran over the head of the pillion, due to which, he died on the spot and PW.1 fell down along with the bicycle on the left side and sustained injuries.
- 3.The case was taken on file in CA.No.27 of 2012, by the III Additional District Sessions Judge, Cuddalore 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.12 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. Both the courts below, after hearing the arguments advanced on either side and also looking into the materials available on record, concurrently found the Petitioner/Accused guilty and awarded punishments as stated above. Hence, 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 as per the evidence of PW.10, when the offending vehicle was loaded with cement, on collision, there would have been a complete damage to the bicycle, but whereas there was no damage at all made to the bicycle and that when there was no damage at all caused to the bicycle and the bicycle was not seized and marked as an material object, rash and negligent driving cannot be attributed to the Petitioner and that the accident had occurred only due to the negligence on the part of the riders

of the bicycle and in such circumstances, the Petitioner is entitled for acquittal and this Criminal Revision Case is to be allowed.

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 on the spot and the injuries sustained by PW.1 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 found the Petitioner/Accused guilty of the offence and accordingly, convicted and sentenced him 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. This Court considered the rival contentions of the learned counsel on either side and also perused the entire evidence available on record.
8. 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 judgements of both 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 14.10.2005 given by PW.1. Ex.P2 is the report of the Motor Vehicle Inspector. Ex.P3 is the post mortem report. Ex.P4 is the accident register in respect of PW.1. Ex.P5 is the printed First Information Report. Ex.P6 is the observation mahazar and Ex.P7 is the rough sketch and Ex.P8 is the inquest report.
10. PW.1 is the rider of the bicycle and the deceased is the pillion rider. PW.1 has deposed that at the relevant point of time, when PW.1, along with the deceased, as a pillion rider, was travelling in a bicycle from South to North, on the left side, at Ulundurpet Main Road, the offending vehicle, coming in the same direction behind them, driven by the Petitioner/Accused in a rash and negligent manner, dashed against the bicycle, due to which, he fell down on the left side and he sustained injuries on his hands and leg. He has further deposed that the pillion rider fell down and the rear left side wheel of the offending vehicle ran over his head and his head was crushed and he died on the spot and that the Petitioner/Accused was the person who drove the offending vehicle at that time and Ex.P1 is the complaint given by him.

- 11.PW.2 has deposed that at a distance of two shops from the place of occurrence, he saw the accident and also deposed about manner, in which the accident had occurred, as deposed by PW.1.
12. PW.6 is the Motor Vehicles Inspector, who inspected the offending vehicle and opined in his report Ex.P2 that there was no damage caused to the offending vehicle and that the accident would not have occurred due to any mechanical defect of the offending vehicle. PW.7 is the mahazar witness
- 13.PW.8, is the Doctor, who conducted post mortem on the body of the deceased and found both the eyes crushed and the bones of the head crushed and found injuries on left side head, below right eyebrow and left chest, left ear and the ribs broken and also injuries in the lungs and issued Ex.P3 post mortem certificate, opining that the deceased would have died of shock and haemorrhage. He had also examined PW.1 and found 6x5 cm blood swelling injury on the back side of right hand and 1 cm abrasion and 10 x8 cm blood swelling injury in the right chest and one blood swelling injury below the the right foot and issued Ex.P4 accident register and opined that the said injuries would have occurred at the time of the occurrence and as projected.
- 14.PW.9, is the Investigating Officer, who prepared the printed First Information Report under Ex.P5 and went to the scene of occurrence and prepared observation mahazar Ex.P6 and rough sketch Ex.P7 and conducted inquest on the body of the deceased and issued inquest report under Ex.P8 and sent the body of the deceased to the hospital for post mortem and sent the case file to the higher official for further investigation.
- 15.PW.10, who is the owner of the offending vehicle, has deposed that the Petitioner/Accused was the person, who drove the offending vehicle at the relevant point of time and that the Petitioner/Accused had informed her about the accident.
- 16.PW.11 has deposed that on the day of occurrence, i.e. on 14.10.2005 at 1.30 p.m. he was travelling along with the Petitioner/Accused in the vehicle and at the relevant point of time, he was sleeping and that on hearing the sound, he awoke and saw one person dead due to hit on the left rear back wheel of the vehicle and another person also sustained injuries and both of them were travelling in a bicycle and that the injured person was driving the bicycle.
- 17.PW.12, Investigating Officer, took up the case for further investigation and after completing investigation, filed the final report against the Petitioner/Accused.

18. On perusal of the entire evidence, it is seen that though PW.3 to PW.5 were treated as hostile witnesses, PW.1, occurrence witness, PW.2, eye witness and PW.11 occurrence witness spoke clearly about the accident and their evidence, particularly, the evidence of PW.11, who spoke about the date and time of the accident, in categorical terms, clearly proves the case of the Prosecution, namely, at the relevant point of time, when PW.1, along with the deceased, as a pillion rider, was travelling in a bicycle, at Ulundurpet Main Road, the offending vehicle, coming in the same direction, driven by the Petitioner/Accused in a rash and negligent manner, dashed against the bicycle, due to which, the pillion rider died on the spot and PW.1 sustained injuries.

19. In so far as the contention of the learned counsel for the Petitioner/Accused that non-production and non-marking of the bicycle is fatal to the case of the Prosecution is concerned, it would not affect the veracity of the case of the Prosecution, since on scrutiny of the evidence coupled with the medical evidence, it is seen that the accident had occurred and that the Petitioner/Accused was the person, who drove the offending vehicle at the relevant point of time and he was alone responsible for the accident, in which, the deceased died on the spot and PW.1 sustained injuries. Hence, the said contention cannot be accepted.

20. 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, in which, the deceased died on the spot and PW.1 sustained injuries and that the Prosecution has proved its case beyond all reasonable doubts 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 or perversity in the findings of both the courts below.

21. In the result, this Criminal Revision Case is dismissed. No costs.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

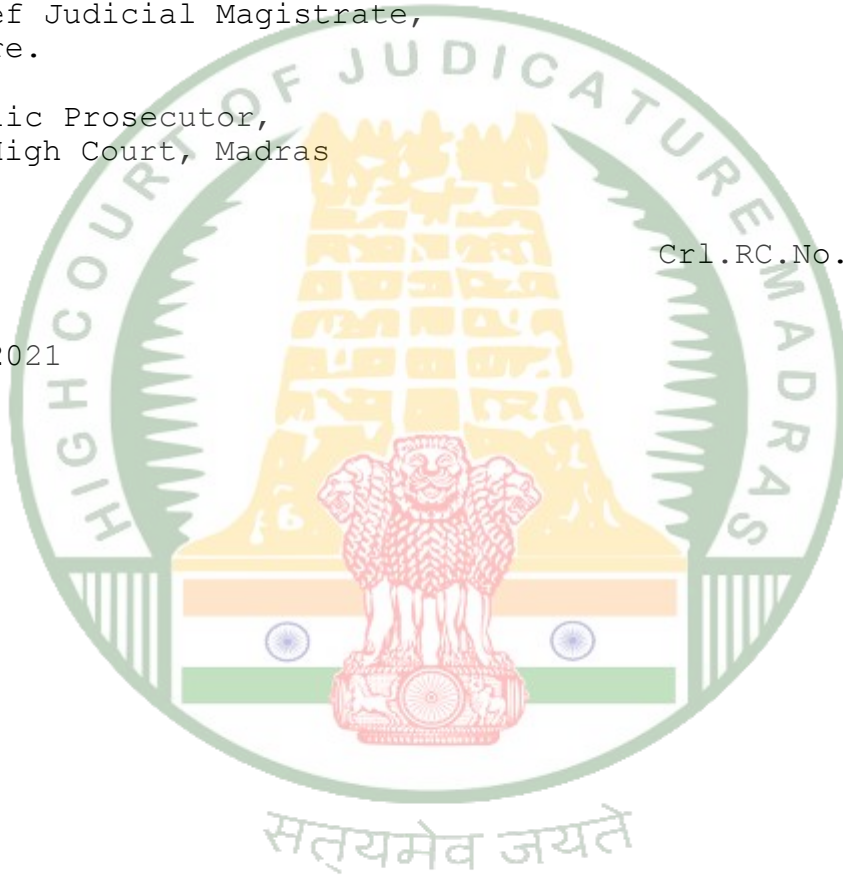
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To

- 1.The Sub Inspector of Police,
Mangalampettai Police Station,
Virudhachalam.
- 2.The III Additional District and Sessions Judge,
Cuddalore.
- 3.The Judicial Magistrate II,
Virudhachalam.
- 4.The Chief Judicial Magistrate,
Cuddalore.
- 5.The Public Prosecutor,
Madras High Court, Madras

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BR(CO)
CS/01/07/2021



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