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BAIL SLIP

That the Petitioner/Accused Kumar S/o.Krishnan was released on bail as per order of this Court dated 29.07.2019 made in CRL.MP.No.9292 of 2019 in CRL.RC.No.667 of 2019 of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.667 OF 2019

Kumar

... Petitioner/Accused

Versus

State through
the Inspector of Police,
Thiruvannamalai Town Police Station,
Thiruvannamalai District.

... Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the judgment made in C.A.No.15 of 2016 on the file of the Principal District Court, Thiruvannamalai by convicting the petitioner under Section 279 IPC to pay a fine of Rs.1000/- and i/d to undergo simple imprisonment for a period of 4 weeks and under Section 338 IPC to pay fine of Rs.800/- and in default to undergo simple imprisonment for a period of four weeks and under Section 304(A) IPC to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for a period of one month confirming the order in C.C.No.308 of 2013 at Judicial Magistrate No.I, Thiruvannamalai.

For Petitioner : Mr.M.Arul Raj
for Mr.J.Lenin

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



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O R D E R

This Criminal Revision Case has been filed against the order dated 13.06.2019 passed in C.A.No.15 of 2016 by the learned Principal District and Sessions Judge, Tiruvannamalai.

2.The case of the prosecution is that on 01.08.2013 at about 19.30 p.m the deceased Arunprasad was riding his Bajaj Platina motorcycle bearing Registration No.TN 25-B-0327 along with Nithyanandan, who was travelling as a pillion rider on Tiruvannamalai Thandrampet Road. When they were nearing Ammu fish shop, the accused/petitioner drove the Government Bus bearing Registration No.TN 23 N 1567 in a rash and negligent manner and over took the motor cycle and while doing so, the front side stair case of the Bus scratched the motor cycle. Due to the said impact, Nithyanandan sustained grievous injuries and Arunprasad succumbed to death.

3.The respondent/police registered a case against the petitioner for the offence under Sections 279, 338 and 304 (A) of I.P.C. After investigation, the respondent police laid a charge sheet before the Judicial Magistrate No.I, Tiruvannamalai and the same was taken on file in C.C.No.308 of 2013. On completion of trial, the trial Court found guilty of the petitioner/accused for the aforesaid offence as below :

(a) for the offence under Section 279 IPC the appellant has to pay a fine of Rs.1000/-, in default to undergo simple imprisonment for a period of four weeks.

(b) for the offence under Section 338 IPC the appellant has to pay a fine of Rs.800/-, in default, to undergo simple imprisonment for a period of four weeks.

(c) for the offence under Section 304(A) IPC the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for a period of one month.

4. Challenging the said judgment of conviction and sentence, the petitioner preferred an appeal before the Principal District and Sessions Judge, Tiruvannamalai and the same was taken on file in C.A.No.15 of 2016. After hearing the arguments advanced on either side and also considering the materials available on record, the learned Sessions Judge dismissed the appeal and confirmed the Judgement of the trial Court. Being aggrieved with the order of the lower Appellate Court, the petitioner is before this Court by way of revision.

5. The learned counsel for the petitioner would submit that there are material contradictions between evidence of the prosecution witnesses. The trial Court failed to appreciate that the prosecution witnesses viz., P.Ws.2 to 9 are relatives



of the deceased and they are interested witnesses. Therefore, no conviction can be recorded based on the interested witnesses and their testimony cannot be believed to be true. He would further submit that except P.W.1 no other witness was eye witness to the scene of occurrence, even though the accident was occurred in the public place. Further P.W.1 was fell down at left side of the road and sustained fracture on his right hand. During the cross examination P.W.1 had admitted that the deceased Arun Prasad and the bike fell down on right side of the road, but, no scratches and damages were found on the right side of the bike. The prosecution has failed to prove the scene of occurrence and place of occurrence. Both the Courts below failed to appreciate entire oral and documentary evidence simply convicted and sentenced the petitioner on the ground of sympathy, which warrants interference of this Court.

6.The learned Government Advocate (CrI.Side) for the respondent would submit that P.W.1 who was the eye witness to the scene of occurrence, was travelling as a pillion rider of the motorcycle has stated that the accused, who was driver of the Government Bus, came in a rash and negligent manner, without blowing the horn and over took the motorcycle, as a result of which, front side stair case of the Bus scratched the handle bar of the motorcycle. Due to the said impact the deceased and P.W.1 fell down; the back wheel of the bus had driven on the head of Arunprasad and he succumbed to death; and P.W.1 sustained fracture on his right hand. Thus, from the evidence of P.W.1, the prosecution has proved its case beyond all reasonable doubts. Both the Courts below rightly appreciated the entire evidence convicted and sentenced the petitioner.

7.Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.Side) for the respondent and also perused the materials available on record.

8.Admittedly, after investigation, the petitioner was charged for the offence under Sections 279, 338 and 304 (A) of I.P.C and convicted and sentenced for the aforesaid offences. In order to substantiate the charges, eye witness to the said accident was examined as P.W.1 and he has clearly narrated the said accident. From the evidence of P.W.1 the prosecution has proved its case beyond all reasonable doubts. Both the Courts below rightly appreciated the entire evidence convicted and sentenced the petitioner.

9.The scope of revision is very limited. The Trial Court and the lower Appellate Court had already appreciated the entire evidence and given its findings. While exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and reappraise the evidences. Therefore, this Court has to see only as to whether there is any



perversity in the appreciation of evidence in the judgment of the Courts below.

10. On a careful reading of the evidence of P.W.1, who is the eye witness to the scene of occurrence and also pillion rider of the two wheeler, reveals that the accident had occurred solely due to rash and negligent driving of the accused/petitioner.

11. Under these circumstances, this Court does not find any reason to discard the evidence of P.W.1 and there is no perversity or illegality in the order passed by the both the Courts below and hence, the Criminal Revision Case is liable to be dismissed.

Accordingly, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

ms/pbl

To

1. The Judicial Magistrate No.I,
Thiruvannamalai.
2. The Principal District and Sessions Judge,
Thiruvannamalai.
3. The Inspector of Police,
Thiruvannamalai Town Police Station,
Thiruvannamalai District.
4. The Public Prosecutor,
High Court, Madras.

Copy To

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

+1cc to Mr.J.Lenin, Advocate, S.R.No.46706

Cr1.R.C.No.677 of 2019

MG(CO)
RLP(01/11/2021)