



BAIL SLIP

The Appellant/Accused Namely, Dayalan S/o.Siyala Gounder was directed to be released on bail by the order of this court dated 29.08.2019 and made in Crl.MP.No.11709/2019 in Crl.R.C.No.801 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.09.2021
CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.801 of 2019

Dayalan ... Petitioner/Appellant/Accused
Versus

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

... Respondent/ Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the judgment made in C.A.No.6 of 2019 on the file of the Principal District Court, Thiruvannamalai convicting the petitioner under section 279 of I.P.C to pay fine of Rs.400/- and i/d to undergo simple imprisonment for a period of two weeks and under section 337 (2 counts) of I.P.C to pay fine of Rs.200/- each and i/d to undergo simple imprisonment for a period of 2 weeks and under section 304(A) of I.P.C to undergo simple imprisonment for a period of three months and to pay a fine of Rs.400/- and i/d to undergo simple imprisonment for a period of two weeks by confirming the judgment made in C.C.No.124 of 2014 on the file of the Judicial Magistrate No.II, Thiruvannamalai.

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

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

ORDER

This Criminal Revision Petition has been filed to set aside the judgment dated 04.07.2019 passed in C.A.No.6 of 2019 on the file of the Principal District Court, Thiruvannamalai, confirming the judgment dated 03.09.2018 passed in C.C.No.124 of 2014 on the file of the Judicial Magistrate No.II, Thiruvannamalai.



2. The respondent police registered a case against the petitioner for the offence punishable under sections 279, 337 (two counts) and 304(A) I.P.C. After completing the investigation, laid a charge sheet before the Judicial Magistrate No.II, Thiruvannamalai. The learned Magistrate taken cognizance of the case in C.C.No.124 of 2014 and after completing trial, convicted the petitioner for the offence under sections 279, 337 (two counts) and 304(A) I.P.C.

3. Challenging the said judgment of conviction and sentence, the petitioner filed an appeal before the Principal District and Sessions Court, Thiruvannamalai. The learned Principal District and Sessions Judge, taken the appeal on file in CrI.A.No.6 of 2019 and after hearing the arguments advanced on either side and considered the materials, re-appreciated the evidence and dismissed the appeal, by confirming the judgment of the trial court. Again challenging the said judgment of dismissal, the petitioner has filed the present Revision Petition before this Court.

4. The learned counsel for the petitioner would submit that the petitioner is not involved in the commission of offence as alleged by the prosecution. Without having driving license and without knowing how to ride the two wheeler, P.W.1 and 2 drove the vehicle in a rash and negligent manner and dashed against the Tamil Nadu Government Bus bearing registration No.T.N.25-N-0356. Hence, the occurrence has taken place. The trial court failed to appreciate the evidence, convicted the petitioner and the appellate court also without re-appreciating the entire evidence, simply endorsed the views of the Judicial Magistrate, dismissed the appeal, which warrants interference of this Court.

5. The learned Government Advocate (Criminal Side) would submit that P.Ws.1 and 2 are the eye witnesses and they supported the case of the prosecution. The Tamil Nadu Government Bus bearing registration No.T.N.25-N-0356 which was driven by the petitioner came behind the two wheeler in which, P.W.1 is the rider and P.W.2 and the deceased are pillion riders. The petitioner drove the bus in a rash and negligent manner and dashed against the two wheeler, due to which, P.Ws.1 and 2 and the deceased sustained injuries and hence, he committed the offence punishable under sections 279, 337(2 counts) and 304(a) I.P.C. The prosecution proved its case beyond reasonable doubt. The evidence of eye witnesses, medical evidence, post-mortem report, clearly shows that the deceased died due to accident. Due to the accident, P.Ws.1 and 2 were also sustained injuries. Wound certificate also proved the same. There is no merit in this revision case and hence the same is liable to be dismissed.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the records.



7. The case of the prosecution is that on 29.03.2014, while P.W.1 was riding a motor cycle in which the deceased and P.W.2 are pillion riders towards Tiruvannamalai -Vellore road, the petitioner drove the Government Bus bearing Registration No.T.N.25-N-0356 in a rash and negligent manner, dashed against the motor vehicle, due to which, occurrence has taken place. The injured were sent to hospital for treatment. Hence the complaint.

8. The trial court found the petitioner guilty for the offence punishable under sections 279, 337 (2 counts) and 304 (A) I.P.C and convicted the petitioner for the offence under section 279 I.P.C., to pay a fine of Rs.400/-, in default to undergo simple imprisonment for two weeks and convicted him for the offence under section 337(2 counts) I.P.C to pay a fine of Rs.200/- each, in default to undergo simple imprisonment for two weeks each and convicted the petitioner for the offence punishable under Section 304(A) I.P.C and sentenced to undergo three months simple imprisonment and to pay fine of Rs.400/-, in default to undergo simple imprisonment for two weeks.

9. In order to substantiate the charges framed against the petitioner, on the side of the prosecution, 19 witnesses were examined as P.Ws.1 to 19 and 15 documents were marked as Exs.P1 to P15. No material object was exhibited. P.W.1 is the eye witness. Though he has not having a driving license, the defence has not established that P.W.1 does not know driving and due to that the accident has taken place. Non production of driving license may not be a sole ground to disbelieve the case of the prosecution, unless it is established that lack of driving of the rider of the motor vehicle, the accident has taken place. The contention of the defence is that at the time of accident, three persons were travelled in two wheeler and due to non- balance of the vehicle, the accident has taken place. P.Ws.1 and 2 sustained injuries and the deceased died due to accidental injury. Evidence of P.Ws.1 and 2 has clearly established that the accident had happened due to rash and negligent driving of the driver of the Government Transport bus. Therefore, this Court is of the view that the prosecution established its case beyond reasonable doubt. Both the trial court and appellate court rightly appreciated the evidence of the eye witnesses P.Ws.1 and 2 and medical evidence and come to the conclusion that the revision petitioner has committed the offence under sections 279, 337 (two counts) and 304(A) I.P.C.

10. Therefore, this Court does not find any perversity in the appreciation of evidence by the Courts below and hence,



the revision is liable to be dismissed. There is no merit in the Revision Petition. Accordingly, the Criminal Revision Case is dismissed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mfa

To

- 1.The Principal District Judge,
Principal District Court,
Thiruvannamalai
2. The Judicial Magistrate No.II,
Judicial Magistrate Court No.II,
Thiruvannamalai.
3. The Inspector of Police,
Thiruvannamalai East Police Station,
Thiruvannamalai District.
4. The Public Prosecutor,
High Court,
Madras.

Copy to:
The Section Officer,
Criminal Section,
High Court, Madras

+1 cc to Mr.J.Lenin, Advocate Sr.NO. 4910

CRL.R.C.No.801 of 2019

SRA(CO)
A.SK(24.02.2022)