



WEB COPY

BAIL SLIP

The Petitioner / Accused namely H.Cleny Alex Fready, S/o, Henry, aged 45 years was released on bail as per order of this court dated 20.12.2019 made in CRL MP No.13489 of 2019 in CRL RC No.950 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.950 of 2019

H. Cleny Alex Fready,
S/o, Henry

... Petitioner/Accused

Versus

State rep. By
The Inspector of Police,
Koradachery Police Station,
Koradachery,
Thiruvarur.

... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 of the Code of Criminal Procedure, to call for the records and set aside the order passed by the Learned District Sessions Judge at Thiruvarur in C.A.No.20 of 2018 dated 20.03.2019 in C.C.No.358 of 2008 dated 23.04.2018 on the file of the Learned Judicial Magistrate, Thiruvarur and grant bail to the petitioner.

For Petitioner : Mr.M.Soundar Vijay Arul Ram
for M/s.R.C.Paul Kanaga Raj

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

ORDER

This Criminal Revision Petition has been filed to call for the records and set aside the order dated 20.03.2019 passed in C.A.No.20 of 2018 on the file of the District Sessions Judge at Thiruvarur, confirming the order dated 23.04.2018 passed in C.C.No.358 of 2008 on the file of the Judicial Magistrate, Thiruvarur.



2. The respondent police registered a case against the petitioner in Crime No.105 of 2007 for the offence under section 304(A) IPC. After completing the investigation, laid a charge sheet before the Judicial Magistrate, Thiruvarur. The learned Magistrate taken the charge sheet on file and framed the charge against the petitioner for the offence under section 304(A) IPC.

3. After the completion of trial, the learned Magistrate come to the conclusion that the petitioner committed the offence under section 304(A) IPC and convicted and sentenced him to undergo two years Simple Imprisonment and to pay a fine of Rs.5,000/- in default to undergo one month Simple Imprisonment. Challenging the said conviction and sentence, the petitioner filed the appeal before the District and Sessions Judge, Thiruvarur and the learned Sessions Judge taken the appeal on file in C.A.No.20 of 2018. After hearing the arguments advanced on either side and perused the materials, dismissed the appeal by confirming the conviction and sentence passed by the learned Judicial Magistrate, Thiruvarur. Challenging the judgment of dismissal of the appeal, the accused has filed the present Revision before this Court.

4. Though this Criminal Revision Case is pending for three years, given several opportunities, till today, the petitioner is not ready to advance his arguments for disposal of the Revision Case. Therefore, this Court perused the grounds of Revision filed by the petitioner and heard the learned Government Advocate (Criminal Side) appearing for the respondent.

5. The case of the prosecution is that on 26.05.2007 at about 8.30 a.m while the petitioner was driving a car bearing Registration No.TN 04 0760 at Thiruvarur-Tanjore main road driving towards East direction, dashed against the pedestrian/deceased and thereafter the deceased was taken to hospital and there she was declared as dead and thereafter complaint was lodged by P.W.1. Based on which the respondent police registered the case against the petitioner.

6. In order to substantiate the charge, on the side of the prosecution totally 10 witnesses were examined and seven documents were marked. No material object has been marked.

7. P.W.1 is the complainant and also the eye-witness, who saw the occurrence and he clearly narrated the manner of accident. He has deposed that on the date of occurrence, his mother proceeded in front of him and he followed his mother. At that time, a car bearing Registration No.TN 04 0760 driven by the petitioner, dashed against his mother and she sustained injuries. P.Ws.2,3 and 4 are also stated to be eye-witness to the accident. P.Ws.2 and 4, during cross examination, deposed



that, after hearing some noise, they came to the accident spot. However, P.Ws.1 to 3 have clearly stated that they have witnessed the occurrence that, the petitioner drove the vehicle bearing registration No.TN 04 0760 in a rash and negligent manner and dashed against the deceased. During cross-examination, the defence counsel has not challenged the accident and made an objection that on hearing the horn sound, the deceased only run to the middle of the road and only due to that accident, the deceased sustained injuries. However, P.Ws.1 to 3 have clearly stated that she was walking only on the left side of the road and at that time, the petitioner drove the vehicle in a rash and negligent manner and dashed against the deceased and therefore, she sustained injuries and succumbed to death. Nothing has been elucidated from the cross examination of the witnesses and also M.V.Report, in which no mechanical defect has been shown. Therefore, both the Courts below rightly appreciated the evidence and convicted the petitioner and passed the order. Therefore, this Court does not find any perversity in the findings of both the Courts below. There is no merit in the Revision and the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Thiruvarur.
2. Do through The Chief Judicial Magistrate,
Thiruvarur.
3. The District and Sessions Judge,
Thiruvarur.
4. The Inspector of Police,
Koradachery Police Station,
Koradachery, Thiruvarur.
5. The Public Prosecutor,
High Court, Madras.

Copy to

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

CRL.R.C.No.950 of 2019

MG(CO)

B.VC (24/09/2021)