



BAIL SLIP IN CRL.R.C.NO.1082 OF 2019

The Petition/Accused namely Mr.S.Paranthaman, S/o.Selvaraj, was directed to be released on bail as per order of this Court dated 21.10.2019 in Crl.M.P.No.14658 of 2019 in Crl.R.C.No.1082 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1082 of 2019

S.Paranthaman

... Petitioner / Accused

Vs.

State Rep. by
Inspector of Police
J2 Adyar Traffic Investigation Wing
Adyar,
Chennai.
Cr.No.772/AM3/2008

... Respondent/ Complainant

Criminal Revision Case filed under Section 397 and 401 Cr.P.C, against the Judgment passed in C.A.No.238 of 2015 dated 28.08.2019 on the file of the learned III Additional Sessions Judge, Chennai confirming the Judgment and order of conviction of the Trial Court passed in C.C.No.11940 of 2009 dated 17.11.2015 on the file of the learned IV Metropolitan Magistrate Court at Saidapet, Chennai and prays for setting aside the same.

For Petitioner : Mr.Anbu R.T.
for M/s.V.Purushothaman Reddy

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



O R D E R

(The case has been heard through video conference)

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The Criminal Revision Case has been filed against the Judgment passed in C.A.No.238 of 2015 dated 28.08.2019 on the file of the learned III Additional Sessions Judge, Chennai, confirming the Judgment and order of conviction of the Trial Court passed in C.C.No.11940 of 2009 dated 17.11.2015 on the file of the learned IV Metropolitan Magistrate Court, Saidapet, Chennai.

2. The petitioner is an accused. The respondent police registered a case against the petitioner in Crime No.772 of 2008 for the offences under Sections 279 and 304(A) IPC. After investigation, they laid charge sheet before the IV Metropolitan Magistrate Court at Saidapet, Chennai and the learned Metropolitan Magistrate taken up the charge sheet on file in C.C.No.11940 of 2009. After completion of trial, the learned Magistrate convicted the petitioner for the offence punishable under Sections 279 and 304 (A) IPC and sentenced to undergo six months simple imprisonment for the offence punishable under Section 279 IPC and also sentenced to undergo two years simple imprisonment for the offence punishable under Section 304 (A) IPC and both the sentences were ordered to be run concurrently.

3. Challenging the said Judgment of conviction and sentence, the accused/petitioner herein filed an appeal before the Principal Sessions Judge, Chennai and the learned Principal Sessions Judge taken up the appeal on file in C.A.No.238 of 2015 and made over the appeal to the III Additional Sessions Judge for disposal. The learned III Additional Sessions Judge, Chennai, after hearing of the arguments and considering the materials on record, dismissed the appeal and confirmed the conviction and sentence passed by the learned IV Metropolitan Magistrate Court, Saidapet, Chennai in C.C.No.11940 of 2009 dated 17.11.2015. Challenging the said Judgment of dismissal of appeal, the accused has filed the present revision before this Court.

4. The case of the prosecution is that one Rajendran and Gopal were working as Watchmen at a private book godown near S.R.P Tools. On 07.10.2008 at about 12.30 P.M. near Rajiv Gandhi Road, S.R.P. Tools Signal, Taramani 100 Feet Road, while the said Rajendran was crossing the road from East to West, the accused/the petitioner herein who was driving the mini lorry bearing Regn.No.TN K 3909 in a rash and negligent manner, without minding the traffic red signal, dashed against the said



Rajendran due to which, he was thrown out and sustained grievous head injury with bleeding over ear and nose and subsequently, he died on the way to hospital.

5. The learned Counsel for the petitioner would submit that in this case there is no eye witness to the accident and P.W.2 and P.W.5 have been projected as eye witnesses and in fact they have not seen the accident. Further, the vehicle was also not identified by any of the witnesses. Even the Motor Vehicle Inspector in his report has mentioned a different vehicle number i.e. TN 10K 3901 which is no way connected with the revision petitioner. The learned Counsel would further submit that the learned trial Judge has observed that the injured was taken to the hospital by an Auto whereas, P.W.5 has stated that the injured was sent to hospital by an Ambulance. He would further submit that there are material contradictions between the prosecution witnesses and the identification of the vehicle number itself is in dispute and that there is no evidence to show that the petitioner only had driven the disputed lorry and caused the accident due to which, the deceased sustained injury and subsequently succumbed to the injuries. Though the prosecution failed to prove the case beyond reasonable doubt, the learned Magistrate convicted the petitioner only based on assumption and sympathy and therefore, the appeal was filed before the Sessions Judge whereas, the learned Sessions Judge without appreciating the evidence independently as a fact finding Court, simply dismissed the appeal without appreciating any of the views of the Magistrate. Therefore, there are perversities in the Judgments of both the Courts below. In the absence of any specific evidence and also materials, the conviction recorded by both the Courts below are perverse and the same is liable to be set aside and he prays for the dismissal of the same.

6. The learned Government Advocate (Crl. Side) would submit that in this case, P.W.2 is the Traffic Police and he has seen the accident and P.W.5 is the eye witness and he has also seen the accident and they have clearly spoken that the petitioner is the one who had caused the accident. Therefore, both the Courts below have rightly appreciated the evidence and convicted the petitioner. There is no merit in the revision and the revision is liable to be dismissed.

7. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials on record.

8. The learned Counsel for the petitioner vehemently contended that the accident itself is not proved by the prosecution and the vehicle involved in the accident and the



manner of the accident was also not proved by the prosecution. A reading of the evidence of P.W.2 and P.W.5 and also the medical evidence shows that the prosecution has proved its case.

9. The power of the revision is very limited. This Court cannot exercise the power of the appellate Court or the trial Court to appreciate the entire evidence. This Court cannot sit in the arm chair of the appellate Court and cannot appreciate or re-assess the evidence and substitute its views on findings of facts. As a revision Court, this Court has to see as to whether there is any perversity in the appreciation of evidence in the Judgments passed by the Courts below.

10. A careful reading of the materials and also the Judgment of both the Courts below, this Court does not find any perversity in appreciating the evidence by the Courts below. In cases of this nature, a witness cannot be expected to narrate the accident exactly as the accident happens unexpectedly. However, the witness can explain whether the vehicle came by speed with rash and negligent manner. Accordingly, in this case, the witnesses have spoken about the rash and negligent driving of the petitioner. Therefore, the prosecution has proved the guilt of the accused/ the petitioner herein and both the Courts below have rightly appreciated the evidence. Hence, this Court does not find any perversity or illegality in appreciating the evidence by the Courts below except some minor contradictions which will not go into the root of the case of the prosecution. The contradictions pointed out by the learned Counsel for the petitioner are not material contradictions. Therefore, this Court finds no merit in the revision and therefore, the revision is liable to be dismissed.

11. As far as the quantum of sentence is concerned, due to the rash and negligent driving of the petitioner, the accident took place however, there was no intention on the part of the petitioner. Therefore, this Court is inclined to modify the sentence of imprisonment alone.

12. Accordingly, the Judgment passed in C.A.No.238 of 2015 dated 28.08.2019 on the file of the learned III Additional Sessions Judge, Chennai, confirming the Judgment and order of conviction of the Trial Court passed in C.C.No.11940 of 2009 dated 17.11.2015 on the file of the learned IV Metropolitan Magistrate Court, Saidapet, Chennai, is confirmed. However, the sentence of imprisonment alone is modified to one year simple imprisonment. The respondent police is directed to secure the petitioner to undergo remaining period of imprisonment as modified by this Court.



13. With the above modification, the Criminal Revision Case is dismissed.

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Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

- 1.The II Additional Sessions Judge,
The II Additional Sessions Court, Chennai.
- 2.The III Additional Sessions Judge,
The III Additional Sessions Court, Chennai.
- 3.The IV Metropolitan Magistrate,
The IV Metropolitan Magistrate Court,
Saidapet, Chennai.
- 4.The Chief Metro Politan Magistrate,
The Chief Metro Politan Magistrate Court,
Egmore (For Information)
- 5.The Inspector of Police,
J-2 Adyar Traffic Investigation Wing,
Adyar, Chennai.
- 6.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.V.Purushothaman, Advocate, S.R.No.41225

Cr1.R.C.No.1082 of 2019

SRA (CO)
SU(03/09/2021)