



BAIL SLIP

The Revision petitioner viz., Senthil Kumar was released on bail as per the order of this Court vide order dated 08.03.2016 made in CRL MP(MD) No.1713/2016 in CRL RC(MD) No.105/2016.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	25.02.2021
DELIVERED ON	05.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Crl.RC(MD)No.105 of 2016

Senthilkumar

...Petitioner/Appellant/Sole accused

Vs.

The State rep. By its,
The Inspector of Police,
Thennilai Police Station,
Karur District.
(Crime No. 372 of 2005)

...Respondent/Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 and 482 of the Criminal Procedure Code, to call for the records pertaining to the order passed in Crl.A. No. 3 of 2013, dated 23.11.2015 on the file of the Mahila Fast Track Court, Karur, modify the order passed in CC. No. 126 of 2012 dated 06.04.2013 on the file of the learned Chief Judicial Magistrate, Karur and set aside the same.

For Petitioner : Mr.S.Arockia Samy for
Mr.R.Mathiyalagan

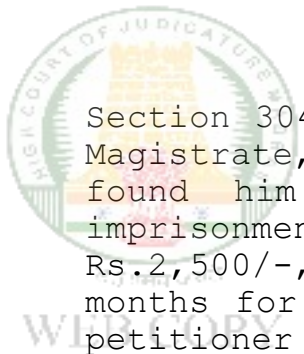
For Respondent : Mr.R.Anandharaj
Additional Public Prosecutor

O R D E R

This Criminal Revision Case has been filed by the petitioner/sole accused to set aside the Order, dated 23.11.2015 in Crl.A. No. 3 of 2013 on the file of the Mahila Fast Track Court, Karur, modified the order, dated 06.04.2013 in C.C. No. 126 of 2012 passed by the learned Chief Judicial Magistrate, Karur.

2. The revision petitioner was tried for the offence under

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Section 304(A) (2 counts) of IPC, before the learned Chief Judicial Magistrate, Karur, and the trial Court, in conclusion of the trial, found him guilty, convicted and sentenced to undergo simple imprisonment for Two years for each count and to pay a fine of Rs.2,500/-, in default, to undergo simple imprisonment for Three months for the offence under Section 304(A) (2 counts) of IPC. The petitioner preferred an appeal before the Court of Sessions and the same was taken in C.A.No. 3 of 2013 and was modified by order, dated 23.11.2015 on the file of the Mahila Fast Track Court, Karur, modifying the conviction and sentence imposed by the trial Court and the petitioner was convicted and sentenced to undergo simple imprisonment for One Year for each count and to pay a fine of Rs.2,500/-in default, to undergo simple imprisonment for Three months for the offence under Section 304(A)(2 counts) of IPC. Aggrieved by the orders of the Courts below, the petitioner has preferred this revision case.

3. The brief fact of the case is that on 02.10.2010, at about 07.30 p.m., Karur- Covai National High way, Vairamadai Bye-pass road, near Kodanthur junction, when the deceased Murugesan drove his Bajaj Motor cycle and his wife deceased Ponnathal as a pillion rider, from east to west, a Taras lorry, bearing Regn.No.TN-50-D-8998, drove by the petitioner/accused, came in a rash and negligent manner and dashed against the two wheeler. In the said accident, the victims Murugesan and Ponnathal sustained injuries and died. Based on the complaint given by PW1, a case in Crime No.372 of 2010 was registered by the respondent Police for the offence under Sections 279, 337, 304(A)(2 counts) of IPC. The respondent Police, after investigation, has filed the final report for the offence under Section 304(A)(2 counts) of IPC and both the Courts below have convicted the petitioner/accused as stated supra.

4. The learned Counsel for the revision petitioner submitted that the lower appellate Court failed to consider that P.W.4/RTO, in his evidence he clearly stated that there was a damage in the back side of the lorry spare tire. He further submitted that the lower appellate Court failed to consider that the lorry was proceedings from West to East and the deceased also came from West to East is clear the deceased has dashed the two wheeler in the backside of the lorry. He further submitted that lower appellate Court failed to consider that P.W.1 is a son-in-law of the deceased and no independent witness has been examined by the prosecution. He further submitted that the petitioner is the only bread winner of the family and he has look after his aged parents. He prayed to allow the Criminal Revision Case.

5. Per contra, the learned Government Advocate (Criminal Side) submitted that the accident was happened due to the rash and negligent driving of the petitioner/accused. She further submitted that the minor discrepancies in the evidence of prosecution is not



has proved the case against the appellant beyond reasonable doubts and therefore, she prays for dismissal.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent police and perused the material documents available on record.

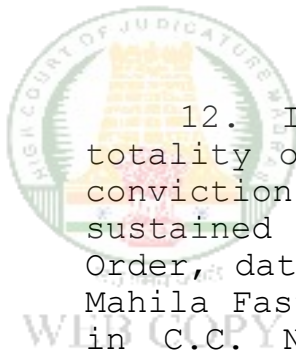
7. The petitioner/accused has filed this Criminal revision case to set aside the Order, dated 23.11.2015 in Crl.A. No. 3 of 2013 on the file of the Mahila Fast Track Court, Karur, modified the order, dated 06.04.2013 in C.C. No. 126 of 2012 passed by the learned Chief Judicial Magistrate, Karur.

8. The petitioner/accused was charged for an offence under Section 304(A)(2 counts) and he was convicted and sentenced to undergo simple imprisonment for Two Years for each count and to pay a fine of Rs.2,500/-in default, to undergo simple imprisonment for Three months for the offence under Section 304(A)(2 counts) of IPC, in C.C. No.126 of 2012 and the same was modified as, to undergo simple imprisonment for One year for each count and to pay a fine of Rs.2,500/-in default, to undergo simple imprisonment for Three months for the offence under Section 304(A)(2 counts) of IPC, in Crl.A.No.3 of 2013, dated 23.11.2015 on the file of the Mahila Fast Track Court, Karur.

9. The prosecution case is that on 02.10.2010 at 07.30 p.m., the deceased Murugesan drove two wheeler with his wife in Karur-Covai Road. The petitioner/accused drove a Taras lorry bearing Regn. No.TN-50-D-8998 with high speed, rash and negligently and dashed against the two wheeler. In the said accident both the Murugesan and his wife were died. The respondent police has laid charge sheet for an offence under Section 304(A)(2 counts) of IPC.

10. Whether rash and negligence was proved against the petitioner./accused by the prosecution?

11. P.W.1 is an eyewitness. He preferred the complaint and he is son-in-law of the deceased. There is no other evidence to corroborate the evidence of P.W.1. Further, M.V. Report of Taras lorry was marked as Ex.P.3 in which only some abrasion on the left side spare tyre and no other damage was caused on the lorry. The Motor vehicle Report with regard to two wheeler was marked as Ex.P.4, in which head light and left side petrol tank of two wheeler were damaged. When a lorry with high speed dashed a two wheeler definitely front side of lorry would damage. The defence case is that when lorry turned to south, two wheeler dashed on the left side of lorry. P.W.5, owner of lorry deposed in support of the defence. Therefore, the prosecution has not proved the case beyond reasonable doubt. Both the Courts below erred in giving the findings and hence, this Court is inclined to allow this revision petition.



12. In view of the above discussions and considering the totality of the circumstances, this Court is of the view that the conviction and sentence on the petitioner/accused cannot be sustained and the same warrants interference. Accordingly, the Order, dated 23.11.2015 in Crl.A. No. 3 of 2013 on the file of the Mahila Fast Track Court, Karur, modified the order, dated 06.04.2013 in C.C. No. 126 of 2012 passed by the learned Chief Judicial Magistrate, Karur. is set aside and the petitioner/ accused is acquitted of the charge framed against him. Fine amount, if any paid, shall be refunded and bail bonds, if any executed, shall stand terminated.

13. In fine, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (T&P)

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/ /2021

Sub Assistant Registrar(CS)

KSA

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Mahila Fast Track Court, Karur.
2. The Chief Judicial Magistrate, Karur.
3. The Inspector of Police,
Thennilai Police Station,
Karur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

**Order made in
Crl.RC(MD)No.105 of 2016
05.03.2021**

PM(CO)

SRS (16/03/2021) 4P : 6C

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