



BAIL SLIP

The petitioner, namely Palanisamy, was released on bail as per the order of this Court dated 02/03/2016 made in CRL MP(MD) No.1741/2016 in CRL RC(MD) No.107/2016.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	05.03.2021
DELIVERED ON	19.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Crl.RC(MD)No.107 of 2016

Palanisamy

...Petitioner/Appellant/Sole Accused

Vs.

The State rep. By its,
The Inspector of Police,
Vengamedu Police Station,
Karur District.
(Crime No.7 of 2007)

...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.16 of 2013, dated 22.12.2015 on the file of the Mahila Fast Track Court, Karur, modify the order passed in C.C. No. 32 of 2013, dated 22.07.2013 on the file of the learned Chief Judicial Magistrate, Karur and set aside the same.

For Petitioner : Mr.R.Mathiyalagan

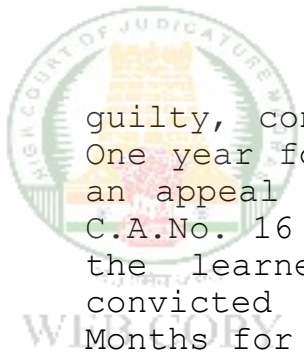
For Respondent : Mrs.M.Anantha Devi

Government Advocate (Criminal Side)

O R D E R

This Criminal Revision Case has been filed by the Petitioner/Sole accused to set aside the Judgment, dated 22.12.2015 in Crl.A. No.16 of 2013, passed by the learned Sessions Judge, Mahila Fast Track Court, Karur, modifying the Judgment, dated 22.07.2013 in C.C. No. 32 of 2013, passed by the learned Chief Judicial Magistrate, Karur.

2. The revision petitioner was tried for the offence under Section 304(A) 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 One year for the offence he stood charged. The petitioner preferred an appeal before the Court of Sessions and the same was taken in C.A.No. 16 of 2013 and was modified by Judgment, dated 22.12.2015 by the learned Sessions Judge, Mahalir Fast Track Court, Karur, convicted and sentenced to undergo simple imprisonment for Six Months for the offence under Section 304(A) 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 23.01.2007, at about 11.00 a.m., in Karur-Vedichipalayam Road, east side of Kalipalayam, on the side of Sixteen pillar Mandapam, One Balasubramani drove his Mini door auto carrying cement articles bearing regn. no. TN-63-W-6254 from west to east in the left side of the road and in the said auto, the deceased Karuppanan was sitting backside in the said mini door auto. A lorry carrying sand, bearing Reg.No.TN-43-E-7592, drove by the petitioner / accused, came in a rash and negligent manner and dashed against the right side of the mini door auto. In the said accident, the victim sustained injuries and was taken to a Lokha Hospital. Despite the best treatment, the victim succumbed to the injuries. Based on the complaint given by PW1, the case in Crime No. 7 of 2007 was registered by the respondent Police for the offence under Section 304(A) IPC. The respondent Police, after investigation, has filed the final report and both the Courts below have convicted the petitioner / accused as stated supra.

4. The learned Counsel for the petitioner submitted that P.W.1 to 3 have not deposed as to the petitioner himself driven the vehicle in a rash and negligent manner and the accident happened only due to rash and negligent driving of the driver of the offending vehicle. He further submitted that the prosecution witnesses have not proved the guilt as against the petitioner. He further submitted that the it is revealed from Ex.P.7/rough sketch, the driver of the Mini door was fully responsible for the accident and the petitioner was not responsible for the accident. He further submitted that the petitioner is aged about 60 years. He further submitted that the conviction and sentence passed by the Courts below are liable to be set aside. He prays for allowing the Criminal Revision case.

5. Per contra, the learned Government Advocate (Crl. Side) would submit that PW.1 is a complainant who drove the mini door auto and P.W.2 and P.W.3 are eye witnesses to the occurrence and in their evidence, they have clearly stated that the petitioner is the Driver of the offending vehicle and the vehicle came in a rash and negligent manner and caused the said accident. She further submitted that the petitioner ought to have driven the vehicle in a careful manner so that he should have applied the brake and prevented the accident. The fact remains that the petitioner has not averted the



petitioner and therefore, she prays for dismissal.

6. Heard the submissions made on either side and perused the materials placed on record.

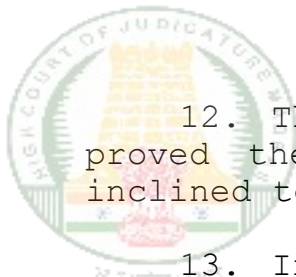
7. The petitioner/accused has filed this Civil Revision case to set aside the Judgment, dated 22.12.2015 in Crl.A. No.16 of 2013, passed by the learned Sessions Judge, Mahila Fast Track Court, Karur, modifying the Judgment, dated 22.07.2013 in C.C. No. 32 of 2013, passed by the learned Chief Judicial Magistrate, Karur.

8. The petitioner/accused was charged for an offence under Section 304(A) of IPC and the trial Court, by Judgment, dated 22.07.2013 convicted and sentenced to undergo simple imprisonment for One year for the offence he stood charged. Against the sentence and conviction of the trial Court, an appeal was preferred by the petitioner/accused in C.A.No. 16 of 2013 and was modified by Judgment, dated 22.12.2015 by the learned Sessions Judge, Mahalir Fast Track Court, Karur, convicted and sentenced to undergo simple imprisonment for Six Months for the offence under Section 304(A) of IPC. Aggrieved by the orders of the Courts below, the petitioner is before this Court.

9. The case of the prosecution is that, on 23.01.2007 at 11.00 a.m., at Karur-Vedichipalayam Road, P.W.1 drove the Mini door auto bearing regn. no. TN-63-W-5254 and in the said mini door auto, the victim Karuppanan sat on the backside for keeping cement articles. On the opposite direction, the petitioner/accused drove his lorry bearing regn. No. TN-43-7592 with rash and negligent manner, from east to west and dashed on the right side carriage of the said Mini door auto. The victim Karuppanan sustained grievous injuries and died. Therefore, the respondent police has laid charge sheet for an offence under Section 304(A) of IPC against the petitioner/accused.

10. The point for consideration is that whether the petitioner/accused is responsible for the accident?

11. The rough sketch was marked as Ex.P.7. As per rough sketch, the accident took place on the left side of the road. As per prosecution, the petitioner/accused drove his vehicle from east to west. Mini door auto came from opposite direction. P.W.1 is the driver of the Mini door auto and he is a fit person to narrate the accident. But, he never stated anything about the rash and negligent driving of the petitioner/accused. P.W.1 also stated that he did not know what was written in the complaint/Ex.P.1. P.W.2 & P.W.3 were examined as eye witnesses. P.W.3 turned hostile. P.W.2 also did not state anything about the rash and negligent driving of the petitioner/accused. Further, the victim Karuppanan sat on the back side of the Mini door auto. The driver of the mini door auto/P.W.1 had not sustained any injuries. Only a person who sat on the back side of the Mini door auto sustained injuries and died.



12. Therefore, from the above facts, the prosecution has not proved the case beyond reasonable doubt. Hence, this Court is inclined to set aside the Judgement of the Courts below.

13. In view of the foregoing discussions and reasonings this Criminal Revision Case is allowed and set aside the Judgment, dated 22.12.2015 in Crl.A. No.16 of 2013, passed by the learned Sessions Judge, Mahila Fast Track Court, Karur, modifying the Judgment, dated 22.07.2013 in C.C.No. 32 of 2013, passed by the learned Chief Judicial Magistrate, Karur. 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.

Sd/-
Assistant Registrar

//True copy//

/ /2021
Sub Assistant Registrar

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 Sessions Judge,
Mahila Fast Track Court, Karur.
2. The Chief Judicial Magistrate, Karur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2-copies)

Order made in
Crl.RC(MD)No.107 of 2016
19.03.2021

PM(CO)

SRS/26.03.2021/4P/6C

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