

Bail Slip

The Petitioner/Appellant/Sole Accused viz Dhanapal male aged 38/2016 was directed to release on bail asper the order of this Court, Dated 01.03.2016 made in CrI.Mp(MD) 1863 & 1864/2016 in CrI.RC(MD)112/2016 on the file of this Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	05.03.2021
DELIVERED ON	25.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CrI.RC(MD)No. 112 of 2016

Dhanapal ... Petitioner/Appellant/Sole Accused

Vs.

State rep. by
The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.
Crime No. 14 of 2010.

... Respondent/Respondent/Complainant

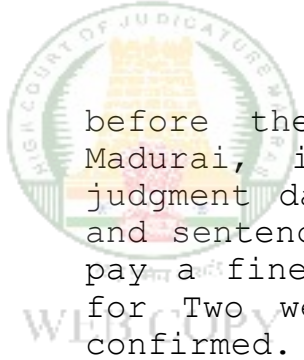
PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code to call for records pertaining to the Judgment passed in C.A. No. 19 of 2014 on the file of the VI Additional District and Sessions Court, Madurai, by Judgment, dated 15.12.2015 confirming the Judgment passed in C.C. No. 27 of 2010 dated 17.03.2014 on the file of the learned Judicial Magistrate No.I, Usilampatti and set aside the conviction and sentence by allowing this revision.

For Petitioner : Mr.K. Sivabalan
For Respondent : Mrs.M. Anantha Devi
Government Advocate (crl.side)

O R D E R

This Criminal Revision Case has been filed by the revision petitioner to set aside the Judgment, dated 15.12.2015 in C.A. No. 19 of 2014, passed by the learned VI Additional District and Sessions Judge, Madurai, by confirming the Judgment, dated 17.03.2014 in C.C. No. 27 of 2010 passed by the learned Judicial Magistrate No.I, Usilampatti.

<https://hcservices.courts.gov.in/hcservices> At the judgment of conviction and sentence passed by the learned Judicial Magistrate No.I, Usilampatti. in C.C.No.27 of 2010, dated 17.03.2014, the petitioner has preferred an appeal



before the learned VI Additional District and Sessions Judge, Madurai, in C.A.No.19 of 2014. The lower Appellate Court, by judgment dated 15.12.2015, dismissed the appeal and the conviction and sentence to undergo rigorous imprisonment for Six months and to pay a fine of Rs.1,000/-in default to undergo simple imprisonment for Two weeks for the offence under Section 304(A) of IPC was confirmed. Aggrieved over the same, the petitioner has preferred the instant criminal revision case.

3. The case of the prosecution is that on 15.01.2020 at about 10.10 a.m., when the deceased Karuppu was walking on Madurai - Theni main road from east to west direction keeping left side of the road and he came near Pottulupatti Rajendran Kalavasal, the driver of a Bus bearing Regn. No. TN-59-AL-9844 drove the vehicle in a rash and negligent manner and hit against the deceased Karuppu and when he fallen on the road due to sudden turn, he was crushed down by the left back side wheel of the Bus and due to the head injuries he died on the spot. Based on the complaint given by PW1, a case in Crime No.14 of 2010 was registered by the respondent Police for the offence under Section 304(A) of IPC. The respondent Police, after investigation, has filed the final report for the offence under Section 304(A) 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 Courts below have failed to consider that in the complaint vehicle number and driver name was not mentioned but, subsequently, in the FIR the driver name and the vehicle number was clearly stated in Exp.4 which itself shows that the entire case is a cooked up one. He further submitted that the Courts below have failed to consider that the accident was occurred that only due to the negligence on the part of the deceased and there is no negligence part of the accused. He further submitted that the Appellate Court wrongly concluded that the evidence of another eye witness, namely; P.W.5 is very clear and unambiguous about the rash and negligent driving of the accused. Hence, he prayed to allow the Criminal Revision Case.

5. Per contra, the learned Government Advocate (Crl. Side) submitted that P.W.1, P.W.2 & P.W.5 have clearly deposed about the occurrence and also about the rash and negligence on the part of the accused. She further submitted that from the evidences of the witnesses the prosecution has clearly proved that the accident was occurred only due to the rash and negligence of the petitioner and hence, the conviction and sentence imposed by the trial Court is correct and it is liable to be confirmed. Therefore, she prays for dismissal.

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

<https://hcservices.ecourts.gov.in/hcservices/>

7. The petitioner/accused has filed this Civil Revision



petition to set aside the Judgment, dated 15.12.2015 in C.A. No. 19 of 2014, passed by the learned VI Additional District and Sessions Judge, Madurai, by confirming the Judgment, dated 17.03.2014 in C.C. No. 27 of 2010 passed by the learned Judicial Magistrate No.I, Usilampatti.

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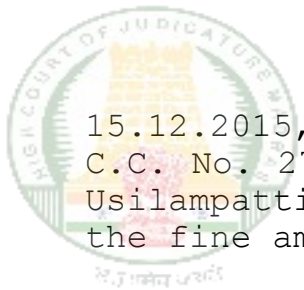
8. The petitioner/accused was charged for an offence under Section 304(A) of IPC and he was convicted and sentenced to undergo rigorous imprisonment for Six months and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for Two weeks for the offence under Section 304(A) of IPC.

9. The case of the prosecution is that on 15.01.2020 at about 10.10 a.m., when the deceased Karuppu was walking on Madurai - Theni main road from east to west direction keeping left side of the road and he came near Pottulupatti Rajendran Kalavasal, the driver of a Bus bearing Regn. No. TN-59-AL-9844 drove the vehicle in a rash and negligent manner and hit against the deceased Karuppu and when he fallen on the road due to sudden turn, he was crushed down by the left back side wheel of the Bus and due to the head injuries he died on the spot.

10. P.W.1, P.W.2 & P.W.5 are eye witnesses and all of them categorically admitted that the accused drove the vehicle with high speed and without using horn dashed against the deceased who walked in southern side of road from east to west. As per report of the Motor Vehicle Inspector, the accident was happened not due to any mechanical defects. Further, the rough sketch was marked as Ex.P.6. The accident was occurred on the southern end of the road. Further, the deceased was thrown to backside wheel and it ran over the head of the deceased. Brain also came out. If really, the petitioner drove the vehicle with normal speed, after dashing the deceased he could stop the bus. Therefore, the nature of accident will speak the rash and negligent act of the petitioner. Hence, this Court has no valid ground to interfere with the findings of the lower Court.

11. It is stated in the affidavit filed by the wife of the deceased, namely Veni @ krishnamani that she had entered a compromise agreement on 21.09.2020 and she had received a sum of Rs.50,000/- as compensation from the petitioner.

12. Considering the affidavit filed by the wife of the deceased, even though 304(A) of IPC is non-compoundable offence, the Court can reduce the sentence. Considering the totality of the circumstances, this Criminal Revision Case stands dismissed regarding conviction passed by the learned VI Additional District and Sessions Judge, Madurai, in C.A.No. 19 of 2014, dated



15.12.2015, confirmed the Judgment, dated 17.03.2014 in C.C. No. 27 of 2010 passed by the learned Judicial Magistrate No.I, Usilampatti and sentence alone set aside and confirmed the order of the fine amount.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /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 VI Additional District and Sessions Judge, Madurai.
2. The Chief Judicial Magistrate, Madurai
3. The Judicial Magistrate No.I, Usilampatti.
4. The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai Dist.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
6. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Cr1.RC (MD) No.112 of 2016

25.03.2021