

Bail Slip

The Revision Petitioner/Accused Ramasamy aged 59 years, S/o.Vengamaraja was enlarged on bail in Cr1.MP(MD)No.3039/2016 in Cr1.RC(MD)No.228/2016 dated 11.04.2016 on the file of this Hon'ble Court.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	22.02.2021
DELIVERED ON	15.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Cr1.RC(MD)No.228 of 2016

Ramasamy ...Petitioner/Appellant/accused

Vs.

State represented by,
Inspector of Police,
Vaiyampatti Police Station,
Trichy District.
(Crime No. 233 of 2013)

...Respondent/Respondent/Complainant

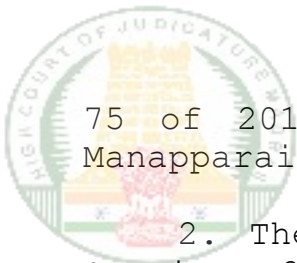
PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the Judgment passed by the learned I Additional District Judge (PCR), Trichirapalli, dated 22.01.2016 in C.A. No. 84 of 2015 by confirming the Judgment, dated 05.10.2015 in C.C. No. 75 of 2014 on the file of the learned Judicial Magistrate at Manapparai and acquit the petitioner.

For Petitioner : Mr.T. Senthilkumar

For Respondent : Mrs. M. Anantha Devi
Government Advocate (crl. Side)

O R D E R

This Criminal Revision Case has been filed by the petitioner to set aside the Judgment, dated 22.01.2016 passed by the learned I Additional District Judge (PCR), Trichirapalli, in C.A. No. 84 of 2015 by confirming the Judgment, dated 05.10.2015 in C.C. No.

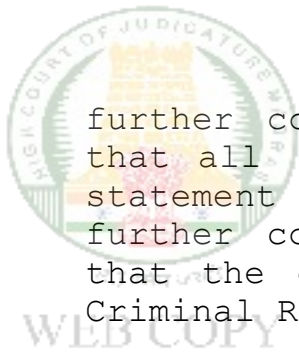


75 of 2014 on the file of the learned Judicial Magistrate at Manapparai and acquit the petitioner.

2. The revision petitioner was tried for the offences under Sections 279, 337 and 304(A) of IPC, before the learned Judicial Magistrate, Manapparai, and the trial Court, in conclusion of the trial, found him guilty, convicted and sentenced to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for One month for the offence under Section 279 of IPC., and to pay a fine of Rs.500/- in default, to undergo simple imprisonment for One month for the offence under Section 337 of IPC and to undergo rigorous imprisonment for One year and to pay a fine of Rs.1000/- in default, to undergo simple imprisonment for Three months for the offence under Section 304(A) of IPC. The petitioner preferred an appeal before the Court of Sessions and the same was taken in C.A.No. 84 of 2015 and was confirmed by order, dated 22.01.2016 on the file of the I Additional District and Sessions Judge (PCR), Tiruchirapalli, confirming the conviction and sentence imposed by the trial Court. 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 18.08.2013 at about 20.45 hrs., the petitioner/accused was riding his two wheeler TVS XL Super bearing registration No. TN-63-AA-3634 along with deceased Soundarrajan as a pillion rider at Trichy - Dndigul National Highways and while they were proceeding near Anjaneyar Kovil at Vaillyampatti from west to east (wrong direction), the petitioner/accused had ridden his two wheeler in a rash and negligent manner and dashed against the TATA Ace vehicle bearing its Regn. No.TN-46-P-6111 which was coming on the opposite direction and that due to the accident, the pillion rider Soundarrajan sustained injury and died on 28.08.2013 due to the injuries caused in the accident and the load man of TATA Ace vehicle also sustained simple injuries. Based on the complaint given by PW1, a case in Crime No.233 of 2013 was registered by the respondent Police for the offences under Sections 279, 337 and 304(A) of IPC. The respondent Police, after investigation, has filed the final report for the offences under Sections 279, 337 and 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 contended that the Judgment of the trial Court was invalid in law, since the trial Court not followed procedure under Section 248 of Cr.P.C., and delivered without hearing of question of sentence. He further contended that the Court below have failed to consider that there was no proper explanation from the prosecution side for a delay of 17 hours in preferring the complaint and there was one day delay in dispatching the FIR to the concerned Magistrate. He



further contended that the Court below have failed to consider that all 161(3) of Cr.P.C. Statement including material witness statement are dispatched to the Court in an inordinate delay. He further contended that the Court below have failed to consider that the defence version of the case. He prayed to allow the Criminal Revision Case.

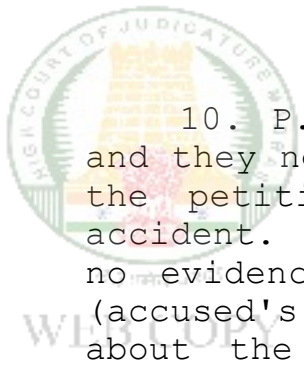
5. Per contra, the learned Government Advocate (Crl. Side) submitted that the accident was happened due to the rash and negligent driving of the petitioner/accused. She further submitted that P.W.6 who is an independent eye witness apart from giving evidence regarding rash and negligent driving of the accused has also identified the accused that he was riding two wheeler involved in the accident and thus the identity of the accused as well as the rash and negligent driving of him has been clearly established by the eye witnesses and therefore, according to him, there is no reason to interfere with the Judgment of Court below and the same is liable to be confirmed and 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.

7. The petitioner/accused has filed this Criminal revision case to set aside the Judgment passed by the learned I Additional District Judge (PCR), Trichirapalli, dated 22.01.2016 in C.A. No. 84 of 2015 by confirming the Judgment, dated 05.10.2015 in C.C. No. 75 of 2014 on the file of the learned Judicial Magistrate at Manapparai and acquit the petitioner.

8. The case of the prosecution is on 18.08.2013 at about 20.45 hrs., the petitioner/accused was riding his two wheeler TVS XL Super bearing registration No. TN-63-AA-3634 along with the deceased Soundarrajan as a pillion rider at Trichy - Dndigul National Highways and while they were proceeding near Anjaneyar Kovil at Vaillyampatti from west to east (wrong direction), the petitioner/accused had ridden his two wheeler in a rash and negligent manner and dashed against the TATA Ace vehicle bearing Regn. No.TN-46-P-6111 which was coming on the opposite direction. Due to the said accident, the pillion rider Soundarrajan sustained injury and died on 28.08.2013 due to the injuries caused in the accident. The load man of the TATA Ace vehicle also sustained simple injuries.

9. The point for consideration is that whether the prosecution has proved rash and negligent act of the petitioner/accused?.



10. P.W.1 & 2 are the eye witnesses of the alleged accident and they never stated anything about rash and negligent driving of the petitioner/accused. There is no doubt that there was an accident. The fact itself would not prove the charges. There is no evidence regarding the direction from where the two wheeler (accused's vehicle) came. The rough sketch did not show anything about the wrong side of vehicle. No prosecution witnesses deposed that the direction of the vehicle.

11. In the accident cases, the prosecution has to prove the rash and negligent act of the driver. In the case on hand, there is no piece of evidence to prove the rash negligent act of the petitioner/accused and the prosecution agency has failed to prove the charges framed against him. Both the Court below erred in coming to the conclusion of charges proved.

12. There is no concrete evidence to prove the alleged accident. Therefore, this Court is inclined to interfere with the findings of the Court below.

13. 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 22.01.2016 passed by the learned I Additional District Judge (PCR), Trichirapalli, in C.A. No. 84 of 2015 by confirming the Judgment, dated 05.10.2015 in C.C. No. 75 of 2014 on the file of the learned Judicial Magistrate at Manapparai, 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.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 Principal Sessions Judge,
Trichy.
2. The I Additional District Judge (PCR),
Trichirapalli.
3. The Judicial Magistrate, Manapparai.
4. The Chief Judicial Magistrate, Trichy.
5. Inspector of Police,
Vaiyampatti Police Station,
Trichy District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer, Criminal Record Section-2 copies
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.RC (MD) No. 228 of 2016
15.03.2021

KM (23.03.2021) 5P 9C