



BAIL SLIP

Shanmugam, aged about 40 years/2015 S/o.Muthan is granted to suspend the sentence of imprisonment vide dated 26.04.2016 made in CRL.MP(MD).3598/2016 and 3899/2016 in CRL.RC.(MD).271/2016.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	22.01.2021
DELIVERED ON	08.02.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Crl.RC(MD)No. 271 of 2016

Shanmugam ...Petitioner/Appellant/Sole Accused
Vs.

State rep. By the
Inspector of Police,
Avudaiyarkoil Police Station,
Pudukkottai District.
(In Crime no. 148 of 2008)

... Respondent/Respondent/
Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records of the learned Additional District Judge, Pudukkottai in Crl. A.No.59 of 2013 by Judgment, dated 29.06.2015, confirming the conviction and sentence of imprisonment imposed by the learned Judicial Magistrate, Aranthangi in C.C. N.362 of 2010, dated 18.11.2013 set aside the Judgment of the Court below.

For Appellant : Mr.J. Anand Kumar, Advocate
For Respondent : Mrs.M.Anantha Devi,
Government Advocate (crl. side)

ORDER

This Criminal Revision Case is filed by the petitioner/sole accused as against the conviction and sentence passed by the learned Judicial Magistrate, Aranthangi, in C.C.No.362 of 2010, dated 18.11.2013, confirmed by the learned Additional District Judge, Pudukkottai, in C.A.No.59 of 2013, dated 29.06.2015.



2. The revision petitioner was tried for the offence under Section 304(A) IPC before the learned Judicial Magistrate, Aranthangi and the trial Court, in conclusion of the trial, found him guilty, convicted and sentenced to undergo rigorous imprisonment for One year and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for one month for the offence he was stood charged. The petitioner preferred an appeal before the Court of Sessions and the same was taken in C.A.No.59 of 2013 and was dismissed by order, dated 29.06.2015 by the learned Additional District Judge, Pudukkottai, 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 29.09.2008, at about 05.30 a.m., in Aavudaiyarkovil police jurisdiction, Vilanur street, when the deceased Arockiasamy, was riding Bicycle from west to east, a Tipper lorry, bearing Regn. No.TN-55-M-7266, drove by the petitioner/accused, came in a rash and negligent manner and dashed against the deceased said Arockiasamy. In the said accident, the victim sustained head injuries and died on the spot. Based on the complaint given by PW1, the case in Crime No.148 of 2008 was registered by the respondent Police for the offence under Sections 304(A) of the 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 revision petitioner submitted that the Courts below failed to appreciate the fact that except P.W.1, other prosecution witnesses were not supported the prosecution. He further submitted that the Court below failed to appreciate the fact that the P.W.1's version did not support the prosecution case and hence, his evidence is liable to be rejected. He further submitted that as per the prosecution case, the deceased came from West to East; but as per the version of the P.W.1 that the deceased came from North to South, hence his evidence is liable to be rejected and he cannot be an eyewitness. He further submitted that the Court below failed to appreciate the fact that no witnesses spoke about rashness and negligent driving of the petitioner at the time of alleged occurrence. He further submitted that the reasons assigned by the Courts below for convicting the petitioner/accused is not sustainable and is liable to be set aside. He prayed to allow the Criminal Revision Case.

5. Per contra, the learned Government Advocate (Crl. Side) submitted that P.W.1 is the eye witness of the accident. She further submitted that the defence taken by the appellant is not acceptable and therefore, she prays for dismissal.

6. This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.



7. The petitioner/accused was charged under Section 304(A) of IPC. Since the petitioner drove a Tipper lorry bearing regn. No.TN-55-M-7266, rash and negligently dashed the deceased Arockiasamy, who came from west to east by cycle and caused death of Arockiasamy. The accused drove the offending vehicle from east to west.

8. The direction where car and cycle came are not in dispute. As per rough sketch, accident occurred on the north (right) side of road, which clearly shows the rash and negligent manner of the petitioner driving. Further, there is no suggestion made on the side of the petitioner/accused about the place of accident and direction where the vehicle came. P.W.1 alone eye witness of the accident, who deposed that the petitioner/driver drove the offending vehicle rashly. So, for negligent, there is no evidence. So, the accused cannot be convicted is the defence side argument. But, in this case, the place of accident and direction clearly prove that the rash and negligence of the driver who drove the Tipper lorry.

9. The Judgments relied on by the learned counsel appearing for the petitioner reported in **(i). 2001(2)MWN (Cr1.) 249 (ii). 1998(5) SCC 493 and (iii). 2017(1) LW Cr1. 160** are not applicable to this case, since rash and negligence is proved by the direction and place of the accident.

10. In view of the foregoing discussions and considering the totality of the circumstances, both the Court below have correctly decided the issue and passed sentence and conviction. There is no valid reason to interfere with the findings of the Court below.

11. In fine, this Criminal Revision Case stands dismissed. The conviction and sentence passed by the learned Additional District Judge, Pudukkottai, in C.A.No.59 of 2013, dated 12.08.2016, confirming the Judgment passed by the learned Judicial Magistrate, Aranthangi, in C.C.No.362 of 2010, dated 18.11.2013, are hereby confirmed. The trial Court is directed to secure the petitioner/accused, who was sentenced for imprisonment and confine him to prison so as to undergo the remaining period of imprisonment, if any. Bail bonds, if any executed, shall stand terminated.

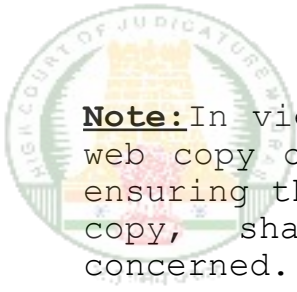
Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

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TO

- 1.The Additional District Judge, Pudukkottai.
- 2.The Judicial Magistrate, Aranthangi.
- 3.Do Through The Chief Judicial Magistrate,
Pudukkottai District.
- 4.The Inspector of Police,
Avudaiyarkoil Police Station,
Pudukkottai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

COPY TO:

The Section Officer, (2 Copies)
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

Order made in
Crl.RC(MD)No.271 of 2016
08.02.2021

KSA
TK/SAR/27.02.2021/4P/8C