



BAIL SLIP

T.Ravikumar, male aged about 35 years/2016, S/o.M. Thangapandi was released on bail vide High Court's order dated 29.08.2016 made in CRL Mp(MD).No.7511 of 2016 in CRL RC(MDC)No.586 of 2016.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	12.03.2021
DELIVERED ON	26.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Cr1.RC(MD)No.586 of 2016

T. Ravikumar

...Petitioner/Petitioner

Vs.

The Inspector of Police,
North Police Station,
Thoothukudi District.
(Crime No. 309 of 2012)

...Respondent/Respondent

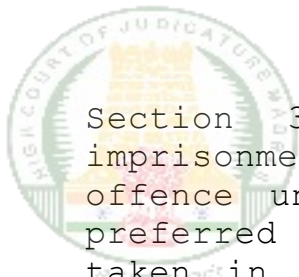
PRAYER: Criminal Revision filed under Section 397 r/w 401 and 482 of the Criminal Procedure Code, to call for the records relating to the Judgment passed by the learned Principal Sessions Judge, Thoothukudi, dated 23.06.2015 in C.A. No. 9 of 2015, confirming the Judgment passed by the learned Chief Judicial Magistrate, Thoothukudi in C.C. No. 15 of 2013, dated 11.02.2015 and set aside the same.

For Petitioner : Mr.N. Dilip Kumar
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 23.06.2015 passed by the learned Principal Sessions Judge, Thoothukudi, in C.A. No. 9 of 2015, by confirming the Judgment, dated 11.02.2015 passed by the learned Chief Judicial Magistrate, Thoothukudi in C.C. No. 15 of 2013.

2.The revision petitioner was tried for the offences under Sections 279, 337, 338 (2 counts) and 304(A) of IPC, before the Chief Judicial Magistrate, Thoothukudi and the trial Court, in conclusion of the trial, found him guilty, convicted and sentenced to undergo rigorous imprisonment for Two years for the offence under

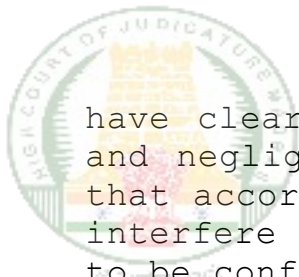


Section 304(A) of IPC and sentenced to undergo rigorous imprisonment for One month for each of the three counts for the offence under Section 337 (3 counts) of IPC. The petitioner preferred an appeal before the Court of Sessions and the same was taken in C.A.No. 9 of 2015 and was confirmed by order, dated 23.06.2015 on the file of the Principal Sessions Judge, Thoothukudi, 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 27.06.2012 at about 10.00 p.m., while the deceased was travelling along with his wife P.W.1/ Complainant/ Janaki in an Auto bearing registration No.TN-69-AA-2620 drove by P.W.3/Mahendran towards east near Thoothukudi PRS Industries, the petitioner/accused drove his car (Ford Titanium) bearing registration No.TN-60-AD-6979 came from opposite direction with rash and negligent manner and dashed against the Auto and a two wheeler(Bajaj-Plantinum) ridden by P.W.4/Kannan bearing registration No.TN-69-M-7358. In the said accident, Mahendran/Auto driver sustained small injuries and the Janaki and Kannan were sustained grievous injuries and due to heard injuries Janaki's husband died. Based on the complaint given by PW1, a case in Crime No. 309 of 2012 was registered by the respondent Police for the offences under Sections 279, 337, 338 (2 counts) and 304(A) of IPC. The respondent Police, after investigation, has filed the final report for the offences under Sections 279, 337, 338 (2 counts) 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 there is no evidence to prove that the revision petitioner is the person who actually drove the offending vehicle at the time of accident and none of the witnesses had identified the petitioner as the driver of the car. He further contended that there is no independent witnesses present in the scene of occurrence had not been examined by the police and P.W.3 and P.W.4 had not identified the petitioner in the scene of occurrence. He further contended that there is an inordinate delay in registration of the First Information Report and also in forwarding the same to the concerned learned Magistrate. He further contended that P.W.6 and P.W.11 have not spoken anything about Ex.P.12/Sketch and they are not aware of the contents of the Observation mahazar. 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.1, P.W.3 & P.W.4 are injured witnesses and they



have clearly deposed that the petitioner drove his car with rash and negligent manner and caused accident. She further submitted that according to the prosecution witnesses, there is no reason to interfere with the Judgment of Courts below and the same is liable to be confirmed and therefore, she prays for dismissal.

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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.

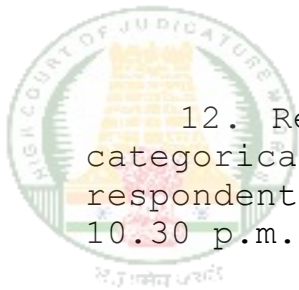
7. The petitioner/accused has filed this Criminal revision case to set aside the Judgment, dated 23.06.2015 passed by the learned Principal Sessions Judge, Thoothukudi, in C.A.No.9 of 2015, confirmed the Judgment, dated 11.02.2015 passed by the learned Chief Judicial Magistrate, Thoothukudi in C.C. No. 15 of 2013.

8. The accused was charged an offence under Sections 279, 337, 338 (2 counts) and 304(A) of IPC.

9. The case of the prosecution is that on 27.06.2012 at about 10.00 p.m., while the deceased was travelling along with his wife P.W.1/ Complainant/ Janaki in an Auto bearing registration No.TN-69-AA-2620 drove by P.W.3/Mahendran towards east near Thoothukudi PRS Industries, the petitioner/accused drove his car (Ford Titanium) bearing registration No.TN-60-AD-6979 came from opposite direction with rash and negligent manner and dashed against the Auto and a two wheeler(Bajaj-Plantinum) ridden by P.W.4/Kannan bearing registration No.TN-69-M-7358. In the said accident, Mahendran/Auto driver sustained small injuries and the Janaki and Kannan were sustained grievous injuries and due to heard injuries Janaki's husband died.

10. The learned counsel appearing for the revision petitioner argued that there is no evidence to prove that the revision petitioner has driven the vehicle and there is no witness identified the driver of the offending vehicle. He further argued that P.W.1 & P.W.2 have stated in their evidence that the revision petitioner drove the offending vehicle. But, P.W.2 had stated that he didn't see the revision petitioner/driver at the time of occurrence.

11. He further argued that there was an inordinate delay in registering the First Information Report. The occurrence took place on 27.06.2012 at 10.00 p.m and the complaint was given in the next day morning at 08.00 a.m. Therefore, the delay is not fatal to the prosecution case and the First Information Report was reached the concerned Court on the same day.



12. Regarding suppression of First Information Report, P.W.1 categorically admitted in her cross examination that the respondent police had enquired her on the day of the occurrence at 10.30 p.m., but, that information was not registered.

13. The another contention of the learned counsel appearing for the revision petitioner that there is a serious doubt with regard to the place of occurrence itself and it is admitted by all the witnesses that the place of occurrence fixed by the respondent police is a road and it is in a damaged and dilapidated condition. Ex.P.8/death intimation issued by A.V.M. Hospital soon after the occurrence would show the place of occurrence near Rex Furniture. The said place is not even mentioned by P.W.17/Investigation Officer in the rough sketch/Ex.P.12 and Observation mahazar/Ex.P.2.

14. The prosecution had not recovered any material found from the place of occurrence and there is no independent witness was examined.

15. As per rough sketch/Ex.P.12, the occurrence was took place in the middle of the road. The offending car came from east to west. But there is no evidence to prove the negligent act of the driver. All the prosecution witnesses have stated that the car came with speed, but, to prove the same, there is no independent witness was examined. There is no concrete evidence except, P.W.1 that the revision petitioner/accused drove the offending vehicle with rash and negligent manner. There may be an accident was occurred, but, no proof against the revision petitioner.

16. 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 Judgment, dated 23.06.2015 passed by the learned Principal Sessions Judge, Thoothukudi, in C.A. No. 9 of 2015, confirmed the Judgment, dated 11.02.2015 passed by the learned Chief Judicial Magistrate, Thoothukudi in C.C. No. 15 of 2013, 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.

17. 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, Thoothukudi.
2. The Chief Judicial Magistrate, Thoothukudi.
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.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-14264[F] dated 29/03/2021
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**Order made in
CrI.RC(MD)No. 586 of 2016
26.03.2021**

TP(CO)
TR(30.04.2021) 6P 6C