



BAIL SLIP

The Petitioner/Accused Balakrishnan, S/o.Srinivasan, was released on bail as per the order of this Court dated 29/08/2016 made in Crl.MP(MD)No.7639/2016 in Crl.RC(MD)No. 594 of 2016.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	03.03.2021
DELIVERED ON	19.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Crl.RC(MD)No. 594 of 2016

Balakrishnan ... Petitioner/Appellant/Accused

Vs.

State represented by
Sub-Inspector of Police,
Kayathar Police Station,
Tuticorin District.
(Crime No. 88 of 2008)

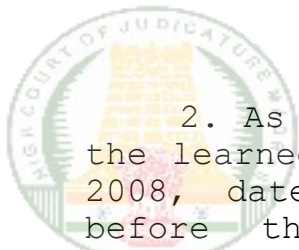
... Respondent/Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code to call for the records and set aside the Judgment passed by the learned II Additional District and Sessions Judge, Tuticorin, dated 28.04.2016 in C.A. No.6 of 2016 by confirming the Judgment, dated 29.01.2016 in C.C. No.109 of 2008 on the file of the learned Judicial Magistrate No.II, Kovilpatti and acquit the petitioner.

For Petitioner : Mr.T. Senthil Kumar
For Respondent : Mrs.M. Anantha Devi
Government Advocate (crl.side)

O R D E R

This Criminal Revision Case is filed by the revision petitioner to set aside the Judgment, dated 28.04.2016 passed by the learned II Additional District and Sessions Judge, Tuticorin, in C.A. No.6 of 2016 by confirming the Judgment, dated 29.01.2016 in C.C. No.109 of 2008 on the file of the learned Judicial Magistrate No.II, Kovilpatti and acquit the petitioner.



2. As against the judgment of conviction and sentence passed by the learned Judicial Magistrate No.II, Kovilpatti, in C.C.No.109 of 2008, dated 29.01.2016, the petitioner has preferred an appeal before the learned Additional District and Sessions Judge, Tuticorin, in C.A.No.6 of 2016. The lower appellate Court, by judgment dated 28.03.2016, dismissed the appeal and the conviction and sentence to undergo simple imprisonment for One Year for the offence under Section 304(A) of IPC was confirmed. Aggrieved over the same, the petitioner has preferred the instant criminal revision case.

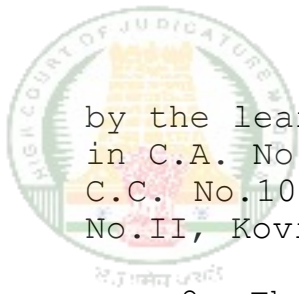
3. The case of the prosecution is that on 13.04.2008 at about 09.50 hrs., Tirunelveli - Madurai National Highway, near Kayathar - Kadambur Vilakku Road, in front of the Maharaja Tea shop, the deceased Kaliyappan S/o.Sankaralingam, South street, Nochikulam, came by his bicycle from north to south on the left side of the road, a bus bearing regn. no.TN-67-N-0037, drove by the petitioner/accused, came on same side of the road in a rash and negligent manner and dashed against the victim. In the said accident, the victim Kaliyappan sustained injuries and died. Based on the complaint given by PW1, a case in Crime No.88 of 2008 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 trial Court without following the procedure as contemplated under Section 259 of Civil Procedure Code and delivered without hearing of question of sentence. He further submitted that the Courts 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 submitted that P.W.1, P.W.2 & P.W.12 are projected as eye witnesses on the side of the prosecution. 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 the minor discrepancies in the evidence of prosecution is not material contradiction. She further submitted that the prosecution has proved the case against the appellant beyond reasonable doubts 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/appellant/accused has filed this Civil Revision to set aside the Judgment, dated 28.04.2016 passed



by the learned II Additional District and Sessions Judge, Tuticorin, in C.A. No.6 of 2016 by confirming the Judgment, dated 29.01.2016 in C.C. No.109 of 2008 on the file of the learned Judicial Magistrate No.II, Kovilpatti and acquit the petitioner.

8. The petitioner/accused was charged under Section 304(A) of IPC and he was convicted and sentenced to undergo simple imprisonment for One Year for the offence under Section 304(A) of IPC.

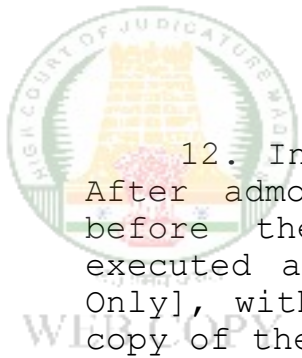
9. The learned counsel appearing for the revision petitioner contended that the alleged accident was not occurred due to the rash and negligent driving of the petitioner. He further contended that there is no bad antecedents against the petitioner and now he is aged about 68 years and he is having many ailments. He prays to consider the age of the petitioner and nature of offence and release him an admonition.

10. Section, 360 of Criminal Procedure Code is extracted hereunder;

" 360 : Order to release on probation of good conduct or after admonition:

(1). When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct and in the meantime to keep the peace and be of good behaviour."

11. Considering the facts and circumstances of the case and considering the age of the petitioner and nature of offence and also considering the fact that there is no bad antecedents against the petitioner, without going into the merits of the case, this Court is inclined to release him under Section 360 of Cr.P.C.



12. In the result, this Criminal Revision Case stands allowed. After admonition, the revision petitioner is directed to appear before the learned Judicial Magistrate No.II, Kovilpatti and executed a own bond for a sum of Rs.10,000/-[Rupees Ten Thousand Only], within a period of One month, from the date of receipt of a copy of the order.

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.

To

1. The II Additional District and Sessions Judge,
Tuticorin.
2. The Judicial Magistrate No.II,
Kovilpatti.
3. The Chief Judicial Magistrate,
Tuticorin District.
4. The Sub-Inspector of Police,
Kayathar Police Station,
Tuticorin District.
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. (2 Copies)

KSA

TE: 01/04/2021 : 4P/8C

Order made in
Crl.RC (MD) No.594 of 2016
19.03.2021