

BAIL SLIP

The Petitioner/Accused namely Shamuganathan, was released on bail as per the order of this Court dated 21.10.2016, made in CRL MP (MD)No.10218 of 2016 in CRL RC(MD)No.721 of 2016.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	25.03.2021
DELIVERED ON	22.04.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI
Cr1.RC(MD)No.721 of 2016

Shamuganathan

... Petitioner/Appellant/A-1

Vs.

The State rep. By Sub-Inspector of Police,
Crime Branch Crime Investigation Department (CBCID),
Sivagangai District,
[Crime No. 03 of 2005]. ... Respondent/Respondent/Complainant

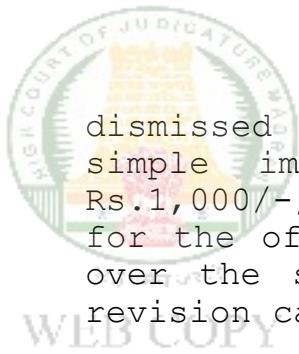
PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the Judgment, dated 14.10.2016 passed in C.A. No.24 of 2014 by the Fast Track Mahila Court, Sivagangai, confirming the conviction and sentence passed by the learned Judicial Magistrate No.II, Sivagangai, in C.C. No. 4 of 2013, 22.04.2014, convicting the petitioner for offence under Section 420 of IPC and imposing sentence of two years simple imprisonment and fine of Rs.1,000/-in default to undergo One month simple imprisonment and acquit the petitioner from the charge.

For Petitioner : Mr.Shanmugaraja Sethupathi
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 14.10.2016 passed in C.A. No.24 of 2014 on the file of the Fast Track Mahila Court, Sivagangai, confirming the conviction and sentence, dated 22.04.2014 in C.C. No. 4 of 2013, passed by the learned Judicial Magistrate No.II, Sivagangai.

2. As against the judgment of conviction and sentence passed by the learned Judicial Magistrate No.II, Sivagangai, in C.C.No.4 of 2013, dated 22.04.2014, the petitioner/A-1 has preferred an appeal before the Fast Track Mahila Court, Sivagangai, in C.A.No. 24 of 2014. The lower appellate Court, by judgment dated 14.10.2016,



dismissed the appeal and the conviction and sentence to undergo simple imprisonment of Two years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for One month for the offence under Section 420 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 04.02.1999 at about 07.00 a.m., this petitioner along with one Kottaisamy was walking from Sivagangai to Muthupatty, near to Vimalraj Garden, an auto bearing registration No.TN-63-A-8579 driven by its driver, A-2 rashly and negligently dashed against A-1 and caused injuries on his right ankle and right shoulder. Subsequently, he was admitted in hospital and taken treatment from 04.02.1999 to 23.03.1999 as inpatient. After lapse of 11 months, on 26.01.2000 a case in Crime No.58 of 2000 for the offence under Section 279, 337 of IPC was registered by the Sivagangai Town Police station.

4. The further case of the prosecution is that A-1 had preferred a petition in MCOP No. 79 of 2001 seeking compensation. The Insurance company had appointed a private investigator and as per report of the investigator, the Auto bearing regn. no. TN-63-A-8579 has been falsely implicated. Based on the report, the Divisional Manager A.N. Vengatesan had preferred a complaint. During the investigation, the Inspector of Police, CBCID, Madurai had found that A-1 got himself admitted in the Meenakshi Mission Hospital. Madurai on 04.02.1999 for injuries that he sustained on 06.01.1999 and the same has been noted in the wound certificate and A-1 knowing that a meeting of Dr.Sethuraman was held on 06.01.1999 at Sivagangai and he give free treatment. So, A-1 admitted in Meenakshmi Mission Hospital and stated that the injuries were sustained by falling from a lorry. For this occurrence A-2 had aided by admitting the offence under Sections 279, 337 of IPC and for the aforesaid occurrence in C.C. No. 394 of 2000 on the file of the learned Judicial Magistrate No.I, Sivagangai on 14.11.2000 and paid a fine of Rs.1000/-so as to enable A-1 to claim compensation.

5. The further case of the prosecution is that A-1 had filed MCOP No. 79 of 2001 before the Sivagangai Court, alleging that he sustained injuries in a motor accident on 04.02.1999, subsequently, an award of Rs.1,15,000/-was made and the Insurance Company had deposited the compensation amount of Rs.1,81,898/- and A-1 had obtained the same. Therefore, the Inspector of Police, had laid charge sheet against A-1 who had stated that an accident had taken place though there was no accident and thereby cheated the Police Department, the Insurance Company and received the compensation amount and thereby A-1 & A-2 have committed an offence under Sections 420 r/w 109 of IPC.



6. The learned Counsel for the revision petitioner submitted that the conviction and Judgment of the Court below are against law. He further submitted that the trial Court failed to note down the contradictions and thereby has not extend the benefit of doubt in favour of the petitioner. The Investigation Officers of the accident case have not been examined by the trial Court. He further submitted that A-1 had obtained the compensation after due enquiry and the Insurance Company has not preferred any appeal, Investigating Officer of the case had admitted in his report that the occurrence in Crime No.58 of 2000 as true. The injuries are not external and as such not old injury. He further submitted that the doctor who issued wound certificate has not been examined and there is no material and documents to conclude A-1 had gained wrongfully and A-2 had aided him. He further submitted that the trial Court has failed to consider the above said facts and hence, the Criminal Revision case is liable to be allowed .

7. Per contra, the learned Government Advocate (Crl. Side) submitted that the accused persons have cheated the police department and insurance company. She further submitted that the accused persons acted knowing fully well inducted a new story by introducing a new vehicle, new driver for the vehicle, which are all against the truth. She further submitted that they have been charged and the offences charged against them were clearly proved by the prosecution and therefore, the trial Court came to a correct conclusion and there is no infirmity to interfere with the findings of the trial Court. Hence, therefore, she prays for dismissal.

8. 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.

9. The petitioner/appellant/A-1 has filed this Civil Revision Petition to set aside the Judgment, dated 14.10.2016 passed in C.A. No.24 of 2014 on the file of the Fast Track Mahila Court, Sivagangai, confirming the conviction and sentence, dated 22.04.2014 in C.C. No. 4 of 2013, passed by the learned Judicial Magistrate No.II, Sivagangai.

10. In this case, P.W.1 who accompanied with A-1 at the time of occurrence, deposed before the trial Court, that about 10 years back, one Auto was dashed against A-1. Eventhough, he did not state the date of occurrence, he stated that there was an accident. The Special Sub-Inspector of Police, who registered the First Information Report was examined as P.W.2. The complaint was lodged on 26.01.2000. But, in the complaint, the date of occurrence was mentioned as 04.02.1999. P.W.2 had deposed that after investigation he found that the occurrence is true and submitted the case for further investigation.

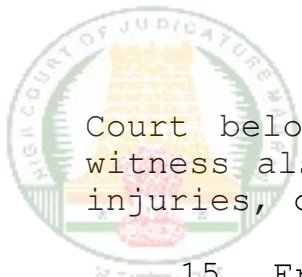


11. Another eye witness of the accident was examined as P.W.3. He has also stated that on 04.02.1999 at 06.30 a.m., an Auto which came from opposite direction dashed against the petitioner. P.W.4 has also stated that 10 to 12 years back A-1 met with an accident by an auto. Private Investigator of Insurance company was examined as P.W.4. He had filed report on 01.02.2002 suspecting the occurrence of accident since there is a contradiction in the copy of accident register and the First Information report. He enquired only in the year 2002. The Divisional Manager of the Insurance company was examined as P.W.6. P.W.7 who admitted A-1 in Madurai Meenakshi Mission Hospital has also stated that on 04.02.1999 at 10.00 a.m., A-1 came into the Hospital. Another important witness is Special Sub-Inspector of Police who stated that on 04.02.1999 at 11.10 a.m., he has received an information from Meenakshi Mission Hospital and he forwarded the same to the police station. If, really the accident did not take place on 04.02.1999 why the hospital sent intimation to the police station on that day.

12. One Dr.Muthusamy who served as Doctor in Meenakshmi Mission Hospital has admitted A-1 in the said hospital to whom A-1 alleged to have stated that on 06.01.1999 he fell down from lorry and he took treatment only after that on 04.02.1999 he came to Meenakshmi Mission Hospital. Dr. Muthusamy was not examined as witness on the side of the prosecution. The other two doctors are only hear say doctors. Dr.Kathiresan who issued Ex.P.6 was examined as P.W.10. In Ex.P.6 on 04.02.1999 it was stated that A-1 came to take treatment for injuries sustained by falling down from lorry. This certificate was given on 29.09.2010 which was not marked and in the said certificate also reason for injury is stated as road accident. Wound certificate was also marked as Ex.P.2. The date of accident was not filled in the wound certificate. But, the cause for injury was stated that road traffic accident and admitted that A-1 came for treatment on 04.02.1999. Two doctors were examined. None of them told that the injuries sustained by the petitioner were whether new or old one.

13. A-2/auto driver had also admitted the offence and paid fine before the Court below. There was long delay for registering the First Information Report i.e., 11 months. But, on 04.02.1999 intimation was given to police station by the hospital. It is only due to the mistake of police who ought to have go to hospital and record statement from A-1.

14. Except the copy of accident register where there is a sentence that A-1 during admission had stated to Doctor that he fell down from a lorry on 06.01.1999 and sustained injuries. But, the doctor to whom, A-1 had stated was not examined. But, in the other hospital records, it was entered as road traffic accident. Except this statement, no other evidence against the petitioner. Both the



Court below have not looked into other materials. Even police witness also admitted that there was an accident and A-1 sustained injuries, on 04.02.1999.

15. From the above facts, this Court has no valid reason to convict the accused. The prosecution has not proved the case beyond reasonable doubt.

16. Finally, this Criminal Revision case is allowed and set aside the Judgment, dated 14.10.2016 passed in C.A. No.24 of 2014 on the file of the Fast Track Mahila Court, Sivagangai, confirming the conviction and sentence, dated 22.04.2014 in C.C. No. 4 of 2013, passed by the learned Judicial Magistrate No.II, Sivagangai. The petitioner/A-1 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.

Sd/-

Assistant Registrar(P & A)

// 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 Fast Track Mahila Court, Sivagangai.
2. The learned Judicial Magistrate No.II, Sivagangai.

3. Sub-Inspector of Police,
Crime Branch Crime Investigation Department (CBCID),
Sivagangai District,

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-17064[F] dated 22/04/2021)

Order made in
Crl.RC(MD)No.721 of 2016
22.04.2021

PM(CO)

TR(04.05.2021) 5P 8C

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