

**Bail Slip**

The Criminal Revision Petitioner / Sole Accused namely Pitchaimuthu, Male, S/o Chellappa Gounder, was directed to be enlarged on bail vide order of this Court dated 18.07.2017 made in Crl.MP(MD) No.6266/2017 in Crl.Rc(MD)No. 565/17.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **12.08.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

**Crl.R.C. (MD)No.565 of 2017**

**and**

**Crl.M.P(MD)No.6267 of 2017**

Pitchaimuthu : Petitioner/Appellant/  
Sole Accused

Vs.

The Inspector of Police,  
Aravakuruchi Police Station,  
Karur District,  
Crime No.262/2010.

: Respondent/Respondent/  
Complainant

**PRAYER:** The Criminal Revision Petition is filed under Section 397 and 401 of the Code of Criminal Procedure, to set aside the judgment rendered in C.A.No.25 of 2014, dated 22.12.2015 on the file of the Mahalir Fast Track Court, Karur by confirming the conviction and sentence passed by the Learned Chief Judicial Magistrate, Karur in C.C.No.9 of 2013, dated 12.05.2014 and acquit the petitioner.

For Petitioner : Mr.R.Mathiyalagan

For Respondent : Mr.E.Antony Sahaya Prabahar  
Government Advocate

**ORDER**

Aggrieved over the concurrent findings made in C.C.No.9 of 2013, on the file of the Chief Judicial Magistrate, Karur, dated 12.05.2014 and Crl.A.No.25/2014, on the file of the Learned Sessions Court, (Fast Track Court) Karur, dated 22.12.2015, the revision petitioner is before this Court to check the correctness of the judgments.

2. The revision petitioner is the sole accused in C.C.No.9 of 2013, on the file of the Chief Judicial Magistrate, Karur. Before the trial Court, he stood charged for the offence punishable under Sections 279 and 304(A) (2 counts) of IPC. He denied the same and opted for trial. Therefore, he was put on trial on the charges.



3. After full-fledged trial, the learned Chief Judicial Magistrate, Karur, came to the conclusion that the revision petitioner is guilty under Section 304(A) of IPC (2 counts) and accordingly, he has been convicted and sentenced to undergo Simple Imprisonment for one year.

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4. Challenging the said conviction and sentence, the petitioner preferred an appeal in C.A.No.25 of 2014 before the learned Sessions Court (Fast Track Court) Karur. The learned Sessions Judge (Fast Track Court) Karur, by judgment, dated 22.12.2015 affirmed the findings arrived at by the trial Court and confirmed the sentence and ultimately, the appeal preferred by the revision petitioner was dismissed. Aggrieved over the said findings, the petitioner is before this Court with the present Criminal Revision Case, to check the correctness of the judgments rendered by the Courts below.

5. The case of the prosecution in brief is as follows:-

(i) P.W.1-Chandrasekaran is the brother of the deceased Kumutha and son of the deceased Periyasamy. While on 18.04.2010, both the deceased travelled in a TVS-50 vehicle from North to South, the revision petitioner being a driver of the lorry bearing Registration No.TN-Q-8159 drove the said Lorry in a rash and negligent manner from South to North and dashed against the TVS-50, in which, both the deceased were travelled. Due to the said accident both the deceased sustained multiple fatal injury and ultimately died in the occurrence place itself. After seeing the occurrence, P.W.1-Chandrasekaran, who travelled just behind the TVS-50, in which, the deceased were travelled, lodged a complaint before the respondent police under Ex.P1. On receipt of the complaint, one Lakshmanan, the then Special Sub-Inspector of Police, registered a case against the revision petitioner in Cr.No.262 of 2010 under Sections 279 and 304(A) of IPC. The printed FIR was marked as Ex.P.8.

(ii) After registering the case as stated above, another one Special Sub-Inspector of Police, viz., Narayananpillai, took the investigation and visited the scene of occurrence. In the presence of witnesses, he prepared an Observation Mahazar under Ex.P9. He drawn the Rough Sketch under Ex.P10. In the hospital, he conducted an enquiry over the dead body of Periyasamy and prepared an Inquest Report under Ex.P11. Similarly, the Special Sub-Inspector of Police, Lakshmanan conducted an enquiry over the dead body of Kumutha and prepared an Inquest Report under Ex.P12. Further, they sent the requisition to the Doctor for conducting an autopsy over the dead bodies.

(iii) On receipt of the requisition, P.W.9-Dr.Bharathan, attached with Government Hospital, Pallappatti, on 18.04.2010 conducted an autopsy over the dead body of the deceased Kumutha, he issued a medical certificate under Ex.P6 stating that cause of



death-shock and hemorrhage due to sustained injuries. Similarly, on the same day, one Dr.Ilavarasu, attached with the same hospital conducted an autopsy over the dead body of the Periyasamy and gave opinion that cause of death-Shock & Hemorrhage due to sustained injury, he issued postmortem certificate under Ex.P7.

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(iv) In continuation of investigation, the Special Sub-Inspector of Police, Lakshmanan examined the witnesses and recorded their statements. After completion of above formalities, P.W.10-Subramanian took the case records for further investigation. He arrested the accused and sent him to the judicial custody. He recovered the vehicles, which involved in the alleged accident and forwarded the same to the Motor Vehicle Inspector with requisition to give opinion in respect of the damages sustained by the vehicles. Complying the request made by P.W.10, P.W.6-Senthilkumar inspected the vehicles and issued a report, stating that the accident is not occurred due to the mechanical defect found in the vehicles. Thereafter, after concluding the investigation as above, P.W.10 came to the positive conclusion that the revision petitioner is liable to be convicted under Sections 279 and 304(A) of IPC and filed a final report.

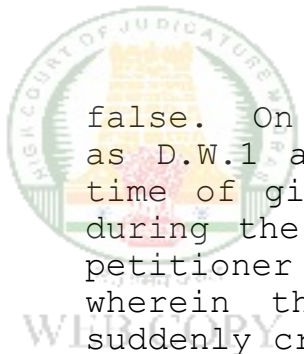
6. Based on the above materials, the Chief Judicial Magistrate, Karur, questioned the revision petitioner/accused as he is committed an offence under Section 304(A) of IPC, for which, the revision petitioner denied the same and opted for trial. Hence, in order to prove their case, on the side of the prosecution, 10 witnesses have been examined as P.W.1 to P.W.10 and 12 documents were marked as Ex.P1 to Ex.P12.

7. Out of the said witnesses, P.Ws.1,3 & 4 are the eye witnesses to the occurrence. P.W.2-Gowrivel signed as a witness in the Observation Mahazar prepared by the Investigating Officer. P.W.5 is the relative of the deceased. P.W.6-Senthilkumar is the Motor Vehicle Inspector speaks about the examination of vehicles involved in the accident.

(I) P.W.7-Ramasamy is the witness for the preparation of Observation Mahazar. P.W.8-Kaliappan is the owner of the lorry. He claims that during the time of occurrence, the revision petitioner alone has drove the lorry. P.W.9-Dr.Bharathan speaks about the injuries sustained by the deceased and gave evidence in respect to the cause of death.

(ii) P.W.10-Subramanian, the then Inspector of Police, speaks about the receipt of complaint by one Special Sub-Inspector of Police and details of investigation and about the filing of final report.

8. When the above incriminating materials were put to the accused under Section 313 Cr.P.C. the accused denied the same as



false. On the side of the accused, two witnesses have been examined as D.W.1 and D.W.2. Out of which, one Thiagarajan, while at the time of giving evidence as D.W.1, has stated in his evidence that during the time of occurrence, the vehicle driven by the revision petitioner was travelled in the western side of the South-West road, wherein the deceased drove his vehicle with negligent manner, suddenly crossed on the south side and therefore, the occurrence had happened. According to him, the alleged occurrence had happened only due to the negligent act of the deceased, who drove the TVS-50.

9. After examining D.W.1, the revision petitioner/accused himself examined as D.W.2 and gave evidence as during the time of occurrence, while he was driving the lorry from South to North, the deceased alone drove the TVS-50 vehicle from West to East and crossed the the Van, which was parked near to the Marriage Hall. Since the deceased suddenly crossed the road, he attempted drove the lorry on the Eastern side of the road, but before that, the lorry was dashed against the vehicle, in which, both the deceased were travelled. According to him, the occurrence had happened only due to the negligent act of the deceased.

10. Having considered all the materials and after hearing the arguments advanced by the learned counsels appearing on either side, the learned Chief Judicial Magistrate, Karur, by judgment, dated 12.05.2014 convicted the revision petitioner under Section 304(A) (2 counts) of IPC and sentenced to undergo Simple Imprisonment for one year. Further, the conviction and sentence awarded by the trial Court was confirmed by the learned Sessions Judge (Fast Track Court), Karur in C.A.No.54 of 2016. Aggrieved over the same, the petitioner has filed this Criminal Revision Case to check correctness of the judgment rendered by the Courts below.

11. I have heard Mr.R.Mathiyalagan, learned counsel appearing for the revision petitioner and Mr.E.Antony Sahaya Prabakar, learned Government Advocate (Crl.side) appearing for the respondent. I have also perused the records carefully.

12. The learned counsel appearing for the revision petitioner would submit that the accident would not have happened in the manner as it is projected by the prosecution. It is his contention that P.Ws.1,3 & 4 are the interested witnesses and therefore, their evidences require close scrutiny. He would further submit that though it is stated by P.Ws.1,3 & 4 that there was a negligent on the part of the revision petitioner, the damages found on the lorry would go to show that there was no such occurrence had happened as alleged by the prosecution. The learned counsel appearing for the revision petitioner would further point out that the damages were found on the lorry only on the left side body and there was no damages on the right side of the lorry at all. From these facts, the learned counsel appearing for the petitioner would submit that the prosecution shows that there was a negligence on



the part of the revision petitioner is absolutely false and hence, the accused is entitled for acquittal.

13. Per contra, the learned Government Advocate (Crl.side) appearing for the respondent would vehemently oppose this Criminal Revision Case. According to him, the alleged occurrence had happened on the Eastern side of the South-West road. Further, during the time of occurrence, the deceased proceeded from North to South. On the other hand, the accused proceeded from South to North. Therefore, it is his duty for the accused, had proceeded his vehicle on the western side of the South-North Road. But, in this case, the Observation Mahazar and the Rough Sketch prepared by the Investigating Officer would clearly shows that the occurrence had happened on the Eastern side of the North-South Road. Therefore, only due to the negligent act of the accused, the alleged occurrence had happened. According to him, interference of this Court in the findings arrived at by the Courts below does not require.

14. I have considered the rival submissions made by the learned counsel appearing on either side.

15. Before the trial Court, the report issued by the Motor Vehicle Inspector pertains to the vehicles involved in this case has been marked as Ex.P3 and Ex.P4. In view of the opinion given by the Motor Vehicle Inspector, the prosecution has shown a prima facie case that the alleged occurrence have not happened due to the mechanical defects of the vehicle. Further, during the time of trial the inquest report and postmortem certificates pertains to the both deceased were marked as Ex.P.6, Ex.P.7, Ex.P.11 & Ex.P12.

16. In respect to the said documents, there is no denial on the side of the revision petitioner as the said documents are not a genuine. In the said circumstances, on going through the judgment rendered by the Courts below, after considering the validity of those documents in respect to show the cause of death, both the Courts only by relying on the evidence given by P.W.4, came to the conclusion that the alleged accident had happened due to the negligent act of the revision petitioner.

17. In otherwise, while at the time of deciding the issue, the Courts below rightly disbelieved the evidence given by P.Ws.1 & 3 as they are the interested witnesses. Therefore, the first submission made by the learned counsel appearing for the revision petitioner is not coming to the aid of the revision petitioner.

18. No doubt, if there are two vehicles travelled in a opposite directions, particularly, in the North-South Road, the vehicle proceeded from South to North has to be travelled on the Western side of the Road. Similarly, the vehicle proceeded from North to South has to be proceeded on the Eastern side of the North-South Road. Therefore, on the said occasion, if the drivers of the vehicles



while at the time of driving the vehicle, followed the said rules, this type of occurrence would not happened.

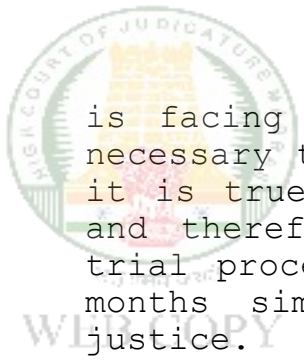
19. It is true as per the Motor Vehicles Inspector Report, the lorry, one of the vehicle involved in the said accident, sustain damage on its front side of the left. But at the same time, the Rough Sketch and Observation Mahazar prepared by the Investigating Officer would go to show that the accident had happened on the Eastern side of the North-South road. Therefore, in totality of the entire circumstances would go to show that during the time of occurrence, the revision petitioner being the driver of the lorry drove his vehicle negligently in the Eastern side of the North-South Road. Only, in the said circumstances, there may be every possibility for sustaining the damages on the left side of the lorry. Even assuming that, the vehicle in which, the deceased were travelled dashed on the western side of the lorry. Since the same has been occurred in the Eastern side of the road, it cannot be said the deceased who drove the TVS-50 is responsible for this accident.

20. Here it is a case, before the Trial Court, in order to prove their case on the side of the accused, two witnesses were examined as D.W.1 and D.W.2. D.W.1-Thiyagarajan gave evidence as during the time of occurrence, both the deceased came from the marriage hall, which is situated on the western side of the road and at that time, they attempted to turn towards south, the driver of the lorry in order to save the deceased drove his vehicle on the Eastern side. But, even after the same, the lorry was dashed against the deceased. In support of the said evidence, the accused himself gave evidence as D.W.2 stated that due to the negligent act of the deceased, the alleged occurrence had happened.

21. But, considering the said evidence given by the defendants, if the occurrence had happened as stated above, it would occur only on the Western side of the road. But, the witnesses, who signed in the Observation Mahazar and the Investigating Officer, who prepared the Rough Sketch have stated in their evidence as the alleged occurrence had happened only on the Eastern side of the East-West Road. Therefore, the evidence of D.W.1 and D.W.2 wholly reveals the fact that they had given a false evidence before the Trial Court in order to get an order of acquittal.

22. Accordingly, in the light of the above discussions stated supra, I am of the opinion that the findings arrived at by the Trial Court is not having any manifest error or illegality or perverse finding. Here it is a case, as already observed that the prosecution has proved his case beyond reasonable doubt and thereby, the revision filed by the revision petitioner is not at all having any merits.

23. In this occasion, the learned counsel appearing for the revision petitioner making a submission as the revision petitioner



is facing this case for the past 10 years and therefore, it is necessary to shown some leniency. Considering the said submission, it is true that the alleged occurrence had happened on 18.04.2010 and therefrom, till now, the revision petitioner has facing the trial proceedings. Therefore, I am of the opinion that awarding 6 months simple imprisonment is sufficient to meet the ends of justice.

24. Accordingly, the Criminal Revision Case is partly allowed and the conviction and sentence awarded by the Courts below is modified to the effect that the revision petitioner is convicted under Section 304(A) of IPC(2 counts) and sentenced to undergo 6 months simple imprisonment. The trial Court is directed to take steps to secure the custody of the accused and make him to undergo the remaining period of the sentence. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

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**To**

- 1.The Sessions Judge,  
Mahalir Fast Track Court,  
Karur.
- 2.The Chief Judicial Magistrate,  
Karur.
- 3.The Inspector of Police,  
Aravakuruchi Police Station,  
Karur District,
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

**Crl.R.C. (MD) No.565 of 2017**  
**12.08.2021**

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