



BAIL SLIP

Sivakumar, S/o Vadivel age (47/17) years was released on bail vide Court Order dated 13.12.2017 in CRL.MP(MD).No. 11285 of 2017 in CRL.R.C.(MD).No. 925 of 217

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.04.2021

PRONOUNCED ON : 03.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.R.C.(MD) No.925 of 2017

Sivakumar : Appellant/Appellant/Accused

Vs.

State by
The Inspector of Police,
Town Police Station, Ramanathapuram.
(in Cr.No.127 of 2004)

: Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C. r/w. Section 401 of Criminal Procedure Code, to call for the records and set aside the order passed by the learned Principal District and Sessions Judge, Ramanathapuram, dated 18.07.2017 in C.A.No.1 of 2016, thereby, modifying the sentence of six months simple imprisonment from the sentence of one year imposed upon the Revision Petitioner by the judgment of the learned Chief Judicial Magistrate, Ramanathapuram, dated 11.12.2015 in C.C.No.23 of 2014 and allow this revision and acquit the Revision Petitioner.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : Mr.A.P.G.Oham Chairma Prabhu

Government Advocate(Crl.Side)

ORDER

This Criminal Revision is filed against the judgment passed by the learned Principal District and Sessions Judge, Ramanathapuram, in C.A.No.1 of 2016, dated 18.07.2017.

2.Heard Mr.P.Ganapathi Subramanian, learned Counsel for the petitioner and Mr.A.P.G.Oham Chairma Prabhu, learned Government Advocate (Crl. Side) for the respondent.

3.Mr.P.Ganapathi Subramanian, learned Counsel for the Revision Petitioner submitted that the case of the prosecution is that on the date of the accident, i.e., on 14.05.2004, at around 07.55 p.m., PW-



1 was riding bicycle and his wife was riding on the pillion in the bicycle on the Ramanathapuram-Rameshwaram road, at that time, a bus bearing Registration No.TN-67-N-0038 was driven rashly and negligently by the petitioner near Government Hospital, Ramanathapuram and hit the bicycle from behind and proceeded without stopping. As a result of which, the pillion rider, wife of the cyclist, fell on the road and suffered head injuries. She was taken to the Ramanathapuram District Head Quarters Hospital, where they pronounced her as brought dead. Therefore, he had proceeded to the Ramanathapuram Town Police Station and lodged a complaint. After registration of the complaint and after conducting investigation, final report was filed against the Revision Petitioner for the offence under Section 304(A) IPC.

4.The Trial Court, on appreciation of the evidence, had convicted the accused/Revision Petitioner in C.C.No.23 of 2014, by judgment, dated 11.12.2015 and sentenced him to undergo one year simple imprisonment. Aggrieved by the judgment of the learned Chief Judicial Magistrate, the accused had filed an appeal in C.A.No.1 of 2016 before the learned Principal District and Sessions Judge, Ramanathapuram. After hearing the appellant/accused and the respondent/State, the learned Principal District and Sessions Judge, Ramanathapuram, by her, judgment dated 18.07.2017, dismissed the appeal confirming the guilty of the accused, but modified the period of sentence by reducing from one year to six months simple imprisonment. Aggrieved by the judgment pronounced by the learned Principal District and Sessions Judge, Ramanathapuram, in C.A.No.1 of 2016, dated 18.07.2017, the present Revision Petition had been filed.

5.Mr.P.Ganapathi Subramanian, learned Counsel for the Revision Petitioner by his arguments submitted that the prosecution had examined PW-1 to PW-11 and marked Ex-P1 to Ex-P7. The accused had not examined himself or let in any evidence. The learned counsel for the revision petitioner submitted that the town buses in Ramanathapuram town are concerned, for every ten minutes there are three buses running, that too in peak hours. When that be the case, PW-1 had fixed a bus. As per the complaint, a bus had just passed then. They identified only the town bus. But the police had fixed the bus driven by the Revision Petitioner to claim compensation for the accidental death of the wife of PW-1. No evidence was available before the Trial Court regarding the culpability of the driver of the bus. It is a hit and run case. There is no clinching evidence to establish the culpability of the Revision Petitioner. For the negligent act of the cyclist, the driver of the bus had been punished. Therefore, the finding of the learned Trial Judge and the Appellate Judge is to be set aside and the Revision Petitioner is to be acquitted from the charge under Section 304(A) of IPC. The learned Counsel for the Revision Petitioner submitted that both the Trial Court and the Appellate Court had erred in appreciation of



evidence. Therefore, the findings of the Trial Court and the Appellate Court are perverse.

6.Mr.A.P.G.Ohm Chairma Prabhu, learned Government Advocate (Crl. Side) had submitted his arguments orally. As per his submissions, the arguments of the learned Counsel for the Revision Petitioner is to be rejected outright. This Court, as Revisional Court, cannot go into the facts of the case or appreciation of the evidence of the case. Only if there is a perverse finding, this Court can interfere with, which is the settled position of law. Mr.A.P.G.Ohm Chairma Prabhu, learned Government Advocate (Crl. Side), had relied upon the reported Ruling of the Honourable Supreme Court in the case of **State represented by the Drugs Inspector -vs- Manimaran**, reported in **(2019) 13 SCC 670**, whereby, the Honourable Supreme Court had held that the Revision Court cannot go into the concurrent findings.

"D.Criminal Procedure Code, 1973 - S.401 - Revisional jurisdiction - Scope - Revisional Jurisdiction of High Court different from appellate jurisdiction - High Court, in revisional jurisdiction cannot interfere with concurrent findings of facts unless perverse or arrived at ignoring material evidence."

7.Point for consideration:

Whether the judgment of conviction and sentence of one year imprisonment imposed by the learned Trial Judge in C.C.No.23 of 2014, dated 11.12.2015, is to be set aside?

8.On perusal of the judgment of the learned Trial Judge, nothing is found perverse. The finding of the learned Principal District and Sessions Judge is not perverse. The learned Principal District and Sessions Judge, by judgment, dated 18.07.2017 upheld the findings of the learned Chief Judicial Magistrate. Under those circumstances, this Court, as Revisional Court, cannot go into the evidence. Unlike, the appellate Court, the Revisional Court has no discretion to interfere, in cases where there are concurrent findings of fact.

9.In view of the above, the point for consideration is answered against the Revision Petitioner and in favour of the prosecution.

10.In the result, this Criminal Revision Petition is dismissed and the order passed by the learned Principal District and Sessions Judge, Ramanathapuram, in C.A.No.1 of 2016, dated 18.07.2017 is confirmed. The learned Chief Judicial Magistrate, Ramanathapuram, is directed to issue warrant against the Revision Petitioner. The Revision Petitioner is directed to surrender before the learned Chief Judicial Magistrate, Ramanathapuram within a period of one month from the date of receipt of a copy of this order. The learned



Chief Judicial Magistrate, Ramanathapuram, shall direct the Inspector of Police, Ramanathapuram Town Police Station to secure the accused in order to undergo the remaining period of sentence of imprisonment. The period of detention already undergone by the accused is set off under Section 428 of Cr.P.C.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr/dh

To

- 1.The Principal District and Sessions Judge, Ramanathapuram.
- 2.The Chief Judicial Magistrate, Ramanathapuram.
- 3.The Inspector of Police,
Town Police Station, Ramanathapuram.
4. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

CRL.R.C. (MD) No.925 of 2017
03.09.2021

SMV(CO)

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