



BAIL SLIP

The Petitioner/Accused Viz., Panthala Raja, Male, Aged 33 Years, S/o.Purushoththaman was directed to be released on Bail vide Order dated 24/03/2016 in CrI.M.P.No.3475 of 2016 in CrI.R.C.No.508 of 2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.508 OF 2016

Panthala Raja

... Petitioner/Accused

.Vs.

The State Rep. by
The Sub Inspector of Police,
Peralam Police Station,
Peralam - Post,
Thiruvarur District.

... Respondent/Complainant

PRAYER:-

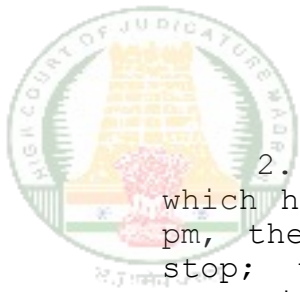
Criminal Revision Case filed under Section 397(1) of Cr.P.C. seeking to set aside the judgement made in C.A.No.15 of 2014 on the file of the Principal District and Sessions Judge, Thiruvarur District dated 01.03.2016 by confirming the judgement made in C.C.No.193 of 2011 on the file of the District Munsif cum Judicial Magistrate Court, Nannilam dated 15.10.2014.

For Petitioner : Mr.D.Veerasekaran

For Respondent : Mr.A.Gopinath
Government Advocate (CrI.Side)

ORDER

This Criminal Revision Case has been preferred challenging the judgement of the learned Principal District and Sessions Judge, Thiruvarur District dated 01.03.2016 passed in C.A.No.15 of 2014.



2. This case has arisen out of the road traffic accident which had occurred on 29.07.2011; on the said day at about 4.30 pm, the deceased alighted from the bus at Abisekamangalam bus stop; the deceased was 13 years old school girl who was returning from school in the said bus; after getting down from the bus, she was walking on the west in order to reach her house which was on the northern side; the bus was coming from west to east; when the deceased put a few steps on the western side, a lorry came from west to east driven by its driver in a rash and negligent manner and hit against the deceased girl; due to this accident, the deceased died on the spot.

2.1 On the complaint given by P.W.5 - father of the deceased, a case was registered in Crime No.299 of 2011 by the Inspector of Police, Peralam Police Station under Section 304 (A) IPC; after taking up the case for investigation, the Investigating Officer went to the place of occurrence, prepared observation Mahazar and rough sketch in the presence of witnesses; he also enquired the witnesses and conducted inquest on the body of the deceased; he also sent the vehicle for inspection to the Motor Vehicle Inspector and got his report; then he sent the body of the deceased for post-mortem and got the post-mortem certificate; the accused was arrested on 30.07.2011 at about 11.30 am and was sent for remand; after completing the investigation, charge sheet was filed under Section 304 (A) IPC.

2.2 After the case was taken on file and on being satisfied with the materials available on record, the accused was questioned for the offences under Section 304 (A) IPC; since the accused denied his involvement and claimed to be tried, trial was conducted.

3. During the course of the trial, on the side of the prosecution, 10 witnesses were examined as P.W.1 to P.W.10 and 7 documents were marked as Exs.P1 to P7. On the side of the defence, no witness was examined and no document was marked.

4. After concluding the trial and on considering the evidence on record, the learned trial Judge found the accused guilty for the offence under Section 304 (A) IPC and convicted and sentenced him to undergo 6 months Simple Imprisonment and imposed a fine of Rs.2,000/- and in default to undergo 1 month Simple Imprisonment. The appeal filed by the accused in C.A.No.15 of 2014 was also dismissed by the learned Principal District and Sessions Judge on 01.03.2016. Aggrieved over that, he has preferred this revision case.



5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent State.

6. The learned counsel for the petitioner submitted that there are lot of contradictions in the evidence of the witnesses and that will prove that none of the witnesses have witnessed the occurrence; the driver was not identified by the eye witnesses. The learned trial Judge did not appreciate the evidence in a proper perspective and convicted the accused. The accident had occurred only due to the negligence of the deceased who attempted to cross the road at the time of the accident.

7. The learned Government Advocate (Criminal Side) appearing for the State submitted that after getting down from the bus, the girl walked on the west side and at that time, the lorry which came from the western side hit against her in a negligent manner and the eye witnesses have stated about this clearly in their evidence. The learned trial Judge had appreciated the evidence in a proper perspective and there is no factual or legal infirmity.

8. Point for consideration :-

Whether the conviction and sentence of the accused for the offence under Section 304 (A) IPC by the learned Judicial Magistrate IV based on the materials available on record is fair and proper?

9. The deceased was a 13 years old school girl who was coming back from school in a Government bus. Shortly before the occurrence, she alighted from the bus at Abisekamangalam bus stop and she put a few steps on the western side in order to cross the road; the bus was coming from the west to east and the deceased girl was also walking towards west. Because she can cross the road only after crossing the bus. The lorry which also came in the west to east direction at that time, without noticing the girl had hit against her.

10. The learned counsel for the petitioner submitted that the accident had taken place only due to negligence of the deceased girl and she had crossed the road without watching the vehicles coming from both sides.

11. The place of occurrence is shown in the rough sketch which is marked as Ex.P6. In the said sketch, the place of occurrence is shown on the northern edge of the east-west road. It is submitted by the learned counsel for the petitioner that the lorry had hit against the girl only when she was about to cross the road and that is why the place of occurrence is shown



12. P.W.1, who is the eye witness for the occurrence and he is not related to the deceased. He was a casual worker and a parent of another school girl who came in the same bus. P.W.1 was waiting at the bus stop in order to take her daughter who was also coming in the same bus on the day of occurrence. So it is quite possible for P.W.1 to witness the occurrence. His evidence would reveal that after alighting from the bus, the deceased had taken a few steps towards western side and at that time, the lorry hit against the girl. This would show that the girl just attempted to cross the road at the time of the accident. Even if it is imagined that the girl has crossed the road, the lorry ought not have hit against the girl. Because the entire width of the road was just 12 ft and it was not a proper place where a big vehicle could overtake the other vehicle.

12.2 It is true that there are some contradictions in the evidence of eye witnesses. But in my opinion there are no material contradictions so as to defeat the case of the prosecution. The evidence on record as well as the features of the place of occurrence would show that the accident had taken place only when the child was walking on the western side road and she was hit by the lorry coming from west to east. Since the First Appellate Judge had rightly re-appreciated the evidence on record, I do not find any factual or legal infirmity so as to warrant any interference.

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caused any other accidents. Considering the same and also other attending circumstances, I feel that the sentence imposed for the accused may be reduced.

In the result, this Criminal Revision Case is partly allowed and the judgement of the Principal District and Sessions Judge, Thiruvarur District made in C.A.No.15 of 2014 dated 01.03.2016 is modified and the accused is found guilty for the offence under Section 304 A IPC and he is convicted and sentenced to undergo Three months Simple Imprisonment and imposed with a fine of Rs.10,000/-. The fine amount if any, paid by the accused need not to be paid again. The sentence of imprisonment already undergone by the accused shall be set off under Section 428 Cr.P.C. If the petitioner/accused is on bail, the Trial Court is directed to issue Non-Bailable Warrant to secure the accused and to send him to prison for undergoing the remaining period of the punishment.

Sd/-
Assistant Registrar(CS VIII)

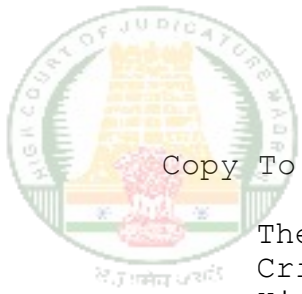
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Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Thiruvarur District.
2. The District Munsif cum
Judicial Magistrate Court,
Nannilam.
3. The Chief Judicial Magistrate,
Thiruvarur. (For Information)
4. The Sub-Inspector of Police,
Peralam Police Station,
Peralam Post,
Thiruvarur District.
5. The Additional Public Prosecutor,
High Court, Madras.



Copy To:-

The Section Officer
Criminal Section,
High Court,
Madras.

WEB COPY

+1cc to Mr.D.Veerasekaran, Advocate, S.R.No.797

CRL.R.C.NO.508 OF 2016

PMK (CO)
PBS/09/02/2022