



BAIL SLIP

The Appellant/Accused Senthilkumar, S/o.Paneerselvam was directed to be released on bail order of this court dated 15.07.2017 made in CrI.M.P.No.150/2017 in CrI.R.C.No.21/2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.21 of 2017

Senthilkumar

...Petitioner

Versus

State rep by,
The Inspector of Police
Nannilam Police Station,
Tiruvarur District.
(Crime No.81 of 2013)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the Judgment passed in C.C.No.106 of 2013 dated 29.01.2015 on the file of District Munsif cum Judicial Magistrate Court, Nannilam confirmed C.A.No.9 of 2015 dated 10.11.2016 on the file of District and Sessions Judge, Tiruvarur.

For Petitioner : Mr.M.Rajkumar
for M/s.T.Muruganantham

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

The Petitioner, who is an accused in C.C.No.106 of 2013, was convicted by the trial Court for offences under Sections 304(A) (2 counts), 337, 338 IPC and sentenced him to undergo 3 months Simple Imprisonment for each counts and to pay a fine of Rs.2,000/- for each counts of offence under Section 304(A) (2 counts) IPC, in default, to undergo one month simple imprisonment and further, for offence under Section 337 IPC, to pay fine of Rs.250/-, in default, to undergo one week Simple



Imprisonment and for offence 338 IPC, to pay a fine of Rs.500/- in default, to undergo one week Simple Imprisonment and the above sentences were ordered to run concurrently.

2. The gist of the case is that on 27.03.2013 at about 3.20 a.m., the defacto complainant along with her father, mother and brother, were sleeping in the house. At that time, she heard bang noise and she had also got entangled into the crushed wall and taken to the hospital and lodged a complaint. Thereafter, she came to know that the lorry bearing registration No.TN-46-E-1120 driven by the petitioner dashed into the house of the defacto complainant and damaged the house. Due to which, PW1's father Yesu and brother Ilamaram died. Her mother and PW1 also sustained injuries. PW3 & PW4 are the neighbours of the defacto complainant. PW5 is the witness to the Observation Mahazer, Rough Sketch. PW6 is the Motor Vehicle Inspector, who issued Ex.P3. PW7 is a Doctor, who conducted post-mortem on D1 and D2 and issues Ex.P4 & Ex.P5. PW8 is the owner of the lorry, who had not supported the case of the prosecution. PW9 is the Investigating Officer, who received complaint and registered an FIR, visited the scene of occurrence, prepared Observation Mahazer and Rough Sketch Ex.P2 & Ex.P3 in the presence of PW3 & PW5. In this case, PW1 to PW9 were examined and Ex.P1 to Ex.P9 were marked. The trial Court, on consideration of the materials available on record, convicted the petitioner as above and the lower Appellate Court also confirmed the conviction and sentenced of the trial Court, against which, the present revision petition.

3. The contention of the learned counsel for the petitioner is that PW3, PW4 & PW5 as well as PW9 Investigating Officer admit that the house of the deceased is abutting the road and further, there is no records produced to show that the deceased is the original owner of the land. PW9 Investigating Officer admits that no revenue record was collected with regard to the house. It is not in dispute that the house was abutting the road and it was at a curve, due to which, the accident occurred. Further, the identity of the driver of the vehicle/petitioner was not confirmed by any of the witnesses. In this case, PW1 and PW2 are injured witnesses and have not seen the accident. They only state about the injury sustained by them. PW3, PW4 & PW5 are the neighbours, who state that after hearing about the accident, they came to the scene of occurrence. PW6 Motor Vehicle Inspector states that he could not conduct road test, the vehicle, his report (M.V. Report) in Ex.P3. PW8 owner of the lorry did not support the case of the prosecution. PW9 had not taken any steps to confirm the identity of the driver of the vehicle and the reason for the accident.

4.The learned Additional Public Prosecutor submits that due



to the rash and negligent driving of the petitioner, he caused death of two persons. It is the case that the petitioner drove the vehicle into the house of the defacto complainant and caused death of her father and brother and also caused injuries to her and her mother. They were immediately rushed to the hospital and given treatment. PW3, PW4 & PW5 are the neighbours, who came to the scene of occurrence immediately, seen the accident and the lorry was into the house of PW1. This accident could have been taken place, due to rash and negligent driving of the petitioner. He further submitted that though PW8 admits that the lorry belongs to him and the petitioner was the driver of the lorry, he further qualifies to say, it would be the manager to confirm whether the petitioner was driving the vehicle or not at that time. But he is very certain that the vehicle belongs to him and the petitioner is a driver under him. During the investigation, he stated that he had three lorries and used the same for transportation of sand. On the date of the occurrence, the lorry was used for transporting lignite from Karaikal Port, at that time, accident had taken place.

5. In this case, two persons died due to the accident and two persons sustained grievance injuries. The trial Court as well as the lower appellate Court rightly convicted the petitioner. This Court finds no infirmity or reason to interfere in the judgment of the Courts below. In the result, the revision is dismissed confirming the conviction and sentence of the petitioner.

6. The trial Court is directed to take steps to secure petitioner for undergoing the sentence.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The District and Sessions Judge,
Tiruvallur.
2. The District Munsif cum Judicial Magistrate,
Nannilam.
3. The Officer in charge,
Sub Jail, Nannilam.



4. The Inspector of Police
Nannilam Police Station,
Tiruvarur District.

5. The Additional Public Prosecutor,
High Court, Madras.

Crl.R.C.No.21 of 2017

GMR (CO)
RGA (05/05/2022)