



Bail Slip

The Petitioner/Accused viz., G.Praveen (22/M) S/o.Gnanaraj was released on bail as per order of this Court dated 24.03.2017 in Crl.MP.No.4120 of 201 in Crl.R.C.No.462 of 2017 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2022

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.R.C.No.462 of 2017

G.Praveen
S/o.Gnanaraj

...Petitioner

Vs

State rep. by
The Sub Inspector of Police,
Thudialur Police Station,
Coimbatore District.

...Respondent

Prayer: Criminal Revision case is filed under Sections 397 & 401 of Code of Criminal Procedure to call for the records in C.A.No.24/2016, dated 15.12.2016 on the file of the learned Principal Sessions Judge, Coimbatore, confirming the conviction and sentence passed by the learned Judicial Magistrate No.I, Coimbatore in C.C.No.157 of 2013 dated 10.02.2016 and set aside the same.

For Petitioner : Mr.P.Kannan
for Mr.A.Tamilarasan

For Respondent : Mr.L.A.Damadoran
Additional Public Prosecutor

ORDER

The petitioner/accused was convicted on 10.02.20216 in C.C.No.157 of 2013 and sentenced to undergo six months Rigorous imprisonment for offence under Section 304(A) IPC, by the Judicial Magistrate No.I, Coimbatore, against which, the



petitioner preferred an appeal in C.A.No.24 of 2016 before the Principal Sessions Judge, Coimbatore. The Principal Sessions Judge, Coimbatore, by judgement dated 15.12.2016, dismissed the appeal by confirming the judgement of the trial Court, against which, the present revision.

2.The gist of the case is that on 19.04.2013 at about 4.30 p.m, the deceased Gopal was crossing a road from East to West, at that time, Maruthi Omni Van driven by the petitioner was coming in a rash and negligent manner, dashed against the deceased Gopal on his left side, due to which, he sustained injury, took him to Lakshmi Hospital and thereafter, within two hours he passed away. Hence, a complaint was lodged by PW1. On receipt of the complaint, FIR in Crime No.292 of 2013 registered for offences under Sections 279 and 304(A) IPC, investigation completed and charge sheet filed listing witnesses. The trial Court examined PW1 to PW9 and Ex.P1 to Ex.P8 marked and on completion of the trial, the trial Court convicted the petitioner as stated above.

3.The contention of the learned counsel for the petitioner is that PW1 is the complainant, who lodged Ex.P1 complaint. This complaint states that the deceased is running a Saloon Shop in Rakkipalayam Pirivu, after taking tea in Mahalakshmi Bakery, his junior father was walking 5 feet ahead of PW1, at that time, the accident took place. PW2 projected the case as though he was having tea along with PW3 Gunasekaran in Mahalakshmi Bakery Tea shop, at that time, accident took place and PW3 is the other witness, who was present along with PW2 at the time of accident. PW4 Krishnaraj stated that he informed PW1 about the accident and thereafter, he went to the hospital. PW5 & PW6 are the observation Mahazar witnesses, who stated about the rough sketch, in whose presence observation mahazer prepared. PW7 is the Doctor, who conducted post mortem and stated that due to injuries sustained, the deceased died. PW8 is the Motor Vehicle Inspector, who gave a report that the accident was not due to any mechanical problem. PW9 SSI, who received the complaint, investigated and filed final report.

4.He further submits that PW1 to PW4 are all interested witnesses, close relatives. Though accident occurred in a public place, no public witnesses examined. Further, PW1 states that the deceased was crossing the road East to West, if that is so, the deceased sustained injuries on his left side. Hence, PW1 is not an eye witness to the occurrence. PW2 and PW3 are all relatives, none of the public were examined despite PW9 admitting that it is a public place where bus stand and shops are located. The trial Court by its judgment acquitted the petitioner for offence under Section 279 IPC finding that there



was no rash and negligent driving. In view of the same, the petitioner cannot be a reason for the accident, further from the rough sketch produced, it is seen that the deceased crossed the road and he contributed for the accident. He further submitted that these vital contradictions were not considered by the Trial Court, and convicted the petitioner. The Lower Appellate Court failed to consider the evidence and materials independently, dismissed the appeal, confirming the trial Court Conviction assailing these points, he prayed for allowing the revision, setting aside conviction. The petitioner without prejudice to his legal submission come forward to pay a sum of Rs.1 Lakh to wife of the deceased Thandamani, overall above the Accident claim amount already received. This payment is an humanitarian consideration.

5.The learned Additional Public Prosecutor submits that from the evidence of PW1 to PW4, the accident was confirmed. It is the case of the prosecution that while the deceased was crossing from East to West, Omni van driven by the petitioner was proceeding from North to South, dashed the deceased, caused accident and the deceased sustained injuries on his left side. Later succumbed and died. The post mortem confirmed the injuries sustained. The motor vehicle inspector confirmed that the vehicle had no mechanical defect. The Observation Mahazar witnesses PW5 & 6 clearly stated about the topography of the place. PW9 is the investigating officer, who state about the investigation, recorded statement of all the witnesses who clearly deposed during the trial, corroborating the evidence of each other. PW3 clearly identified the petitioner, who driven the vehicle, driver who drove the vehicle on the date of the accident. PW9 investigating officer states that the petitioner accused surrendered himself voluntarily before the police station and thereafter, produced the vehicle documents and obtained bail. Now, the petitioner's contention is that none of the witnesses identified the driver of the vehicle is not sustainable. He further submitted that there is no dispute as regard the accident, due to the accident, one Gopal died is not in dispute. Likewise, Omni Van driven by the petitioner is proved.

6.Considering, the submissions and perusal of materials, it is seen that the P.W.1 and his junior father while crossing the road, the accident had taken place. He admits that he was five feet behind him, at that time the accident is yet to have been taken place. From the observations and rough sketch, it is seen that the accident was taken place in the middle of the road. There is no zebra line and it is not a place meant for pedestrian crossing. The deceased had treadled himself to the



middle of the road and contributed to the accident. The presence of P.W.2 and P.W.3 was near the tea shop, from the tea shop, the place of accident cannot be viewed. P.W.2 was in the tea shop, from the tea shop accident spot cannot be viewed completely. Their presence as well being the eye witness is also doubtful. P.W.4, who is the complainant in this case had lodged Ex.P1 complaint admits that he had taken the deceased to the hospital and thereafter had gone to the police station. He states that he had informed P.W.1 about the accident. Hence, P.W.1 is not an eye witness to the accident. P.W.4 is the only eye witness to the accident. He does not state about the accident properly. Thus, P.W.1 to P.W.3 cannot be stated as eye witnesses to the accident. P.W.2 and P.W.3 stated that the accident had taken place near Mahalakshmi Bakery. From the rough sketch Ex.P8 and evidence of P.W.9, the investigating officer, it is seen that the Mahalakshmi Bakery is 75 feet away from the scene of accident and further in position which the bakery is located, P.W.2 and P.W.3 could not have witnessed the accident. The lower Court finding that the petitioner had surrendered in this case and has obtained bail confirmed that he is the driver of the van is not acceptable. In view of P.W.1 to P.W.3 are not taken as eye witnesses and P.W.4 not stated anything about the accident. It cannot be conclusively held that the petitioner had caused the accident and the accident had caused due to the rash and negligent driving of the petitioner.

7. In view of the same, benefits of doubt is in favour of the petitioner, this Court is inclined to allow the petition and acquit the petitioner from all charges framed against him.

8. In the result, this Criminal Revision Case stands allowed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

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To.

1. The Principal Sessions Court
Coimbatore



2.The Judicial Magistrate No.I
Coimbatore

3.The Jub Inspector of Police,
Thudialur Police Station,
Coimbatore District

4.The Public Prosecutor
High Court of Madras
Chennai 600 104

Copy To

The Section Officer,
Crl Section (Records)
High Court, Madras.

Crl. R.C.No.462 of 2017

PL (CO)
GMY (21/04/2022)