

**BAIL SLIP**

The Appellant / Accused Muniasamy, S/o.Antonysamy was directed to be released on bail of this court order dated 07/03/2019 and made in Crl MP(MD)Nos.1743 & 1744 of 2019 in Crl.RC(MD)No.89 of 2019.

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 20.06.2023****CORAM****THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN****Crl.R.C(MD)No.89 of 2019**

Muniasamy ... Petitioner / Appellant / Accused

**Vs.**

State rep. By,  
Inspector of Police,  
Muthaiahpuram Police Station,  
Thoothukudi.  
(In Crime No.453 of 2012)

... Respondent / Respondent /  
Complainant

**PRAYER:** Criminal Revision Case filed under Sections 397(1) r/w 401 of the Code of Criminal Procedure, to call for the records in C.A.No.18 of 2017 on the file of the learned Principal Sessions Judge, Thoothukudi dated 30.11.2018 set aside the same confirming the order dated 03.12.2017 passed by the learned Chief Judicial Magistrate, Thoothukudi in C.C.No.96 of 2012.

For Petitioner : Mr.K.Vinayagan  
For Respondent : Mr.Vaikkam Karunanithi,  
Government Advocate (Crl. Side)

**ORDER**

This revision has been filed to set aside the order passed in Crl.A. No.18 of 2017 on the file of the learned Principal Sessions Judge, Thoothukudi, dated 30.11.2018, confirming the conviction and sentence passed in C.C.No.96 of 2012 on the file of the Chief Judicial Magistrate, Thoothukudi, dated 03.12.2017.

2.The case of the prosecution is that on 20.05.2012, at about 05.00 p.m., the defendant along with injured person travelling in

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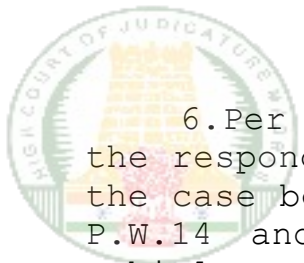


an auto bearing registration No.TN-67-H-9724 Thooth - Tiruchendur Road from South to North. When the said auto was near Muthaiahpuram HWP Colony, the petitioner had driven the private bus bearing registration No.TN-69-Q-8517 in a rash and negligent manner without any horn, dashed against the load auto and thereby caused grievous injury to four persons and also caused death to one person. On complaint, the respondent registered FIR in Crime No.453 of 2012 for the offence under Sections 279, 337 (2 counts), 338 (2 counts) and 304A of IPC. After completion of investigation, the same was taken on file on the side of the prosecution in order to prove the charges.

3.The prosecution has examined P.W.1 to P.W.14 and Ex.P.1 to Ex.P.15 were marked and on the side of the accused, no witness was examined and no document was marked.

4.On perusal of the oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Sections 304A, 337 (2 counts) and 338 (2 counts) of IPC and sentenced him to undergo one year rigorous imprisonment under Section 304A of IPC and imposed a fine of Rs.500/- in default to undergo two months simple imprisonment under Section 337 (2 counts) of IPC and imposed a fine of Rs.1,000/- in default to undergo four months simple imprisonment under Section 338 (2 counts). Aggrieved by the same, the petitioner preferred an appeal in Crl.A. No.18 of 2017 on the file of the learned Principal Sessions Judge, Thoothukudi and the Appellate Court partly allowed and the conviction imposed on the accused is confirmed and the sentence of imprisonment imposed by the trial Court with regard to the offence Section 304A is reduced from one year rigorous imprisonment to six months rigorous imprisonment and the fine imposed in other offences remained unaltered. Hence, the present revision.

5.The learned counsel for the petitioner would submit that no independent witness was examined by the prosecution in order to prove the charges made out and the deceased were not supposed to travel in load auto. In fact they were two autos and racing each other and due to which, accident was happened not due to the rash and negligent driving of the petitioner. He further submitted that if at all the bus was driven in a speedy manner, the auto, which was driven by the deceased would be thrown out. Whereas the bus slightly touched the auto, as such it fell down and due to which, unfortunately one person died and four persons sustained injuries. He further submitted that he is also ready and willing to compensate the family of the deceased and to sought for modification of the sentence imposed by the Courts below.

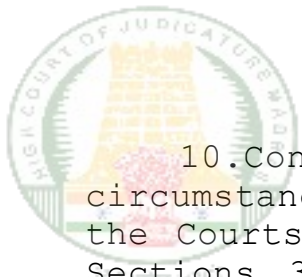


6.Per contra the learned Government Advocate (Crl.S or the respondent police would submit that the prosecution has proved the case beyond the reasonable doubt by examining witness P.W.1 to P.W.14 and by marking documents Ex.P1 to Ex.P15. The Motor Vehicle Inspector categorically deposed that the accident was not happened due to mechanical defect and only because of the rash and negligent driving of the petitioner, the accident had taken place. In fact the bus was driven by the petitioner in a speedy manner and dashed against the auto, which were also going in same direction in front of the bus. P.W.1 to P.W.4 are eye witnesses to the occurrence and they also categorically deposed that the petitioner has driven the bus and hit them on their behind. All the witnesses cogently and elaborately deposed that the petitioner was rash and negligent driving caused the accident. He would submit that the findings of the Courts below cannot be disputed unless until it was based on the wrong conclusion. Hence, he prayed for dismissal of the revision case.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.A perusal of the records reveals that after 5 p.m., when the deceased and injured persons were proceeding in the load auto at Thoothukudi - Tiruchendur Road from South to North, the petitioner had driven his bus in a rash and negligent manner from the back side of the auto and hit the auto. Therefore one person died and four persons sustained grievous injury. The prosecution had examined P.W.1 to P.W.4 and all the injured persons were examined and they categorically deposed that only because of rash and negligent driving of the petitioner, the accident had taken place. The Motor Vehicle Inspector categorically deposed that the accident was not occurred due to any mechanical defect, which was marked as Ex.P10. Further it is seen that the petitioner had driven his bus behind the auto in a very high speed and uncontrollable manner and also in a rash and negligent and hit the auto. It at all the petitioner did not drive his bus in a rash and negligent manner very much he would have examined some passengers in support of his case. However, the petitioner failed to examine any witness and failed to mark any document before the trial Court. Therefore, the prosecution proved his case beyond any doubt. This Court finds no infirmity or illegality in the order passed by the Courts below.

9.However, the learned counsel for the petitioner would submit that considering the age of the petitioner, the sentence may be reduced for the offence under Section 304(A) of IPC as against the petitioner.



10. Considering the above submissions and facts and circumstances of the case, the conviction and sentence imposed by the Courts below as against the petitioner for the offence under Sections 337 (2 counts) and 338 (2 counts) of I.P.C is hereby confirmed. Further, the conviction imposed as against the petitioner for the offence under Section 304(A) is hereby confirmed. In so far as the sentence is concerned, it is reduced from six months to three months for the offence under Section 304 (A) of I.P.C.

11. Accordingly, this Criminal Revision case is partly allowed. The trial Court is directed to take appropriate steps to secure the petitioner in order to serve the remaining period of sentence, if any. The fine amount if any paid by the petitioner, shall be refunded to him. The bail bond if any executed by the petitioner shall stand cancelled.

Sd/-

Assistant Registrar(AD II)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

Mrn

To

1 THE JUDICIAL MAGISTRATE, TUTICORIN.

2. The Chief Judicial Magistrate,  
Thoothukudi.

3. The Principal Sessions Judge,  
Thoothukudi.

4. The Inspector of Police,  
Muthaiahpuram Police Station,  
Thoothukudi District.

5. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

COPY TO:

The Section Officer,  
Criminal Records,  
Madurai Bench of Madras High Court, Madurai.

**Crl.R.C(MD) No. 89 of 2019**

**20.06.2023**

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