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*Crl.M.P.No.4487 of 2024
in Crl.R.C.No.465 of 2024*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM:

THE HON'BLE **MR.JUSTICE M. NIRMAL KUMAR**

Crl.M.P.No.4487 of 2024
in
Crl.R.C.No.465 of 2024

M.Rajiv Gandhi
S/o.Mandaladurai

... Petitioner/Accused

Vs.

The State rep by
The Inspector of Police,
Yethapur Police Station,
Salem.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(1) of Cr.P.C to suspend the sentence imposed on the petitioner in Crl.A.No.17 of 2023 dated 22.09.2023 passed by the I Additional District and Sessions Judge, Salem by confirming the judgment of the learned Judicial Magistrate No.I, Attur in C.C.No.267 of 2020 dated 30.12.2022, pending disposal of the above appeal.

For Petitioner : Mr.K.Thenrajan

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER



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2.The petitioner was convicted by the trial Court in C.C.No.267 of 2020 by judgment dated 30.12.2022 and sentenced to undergo three months simple imprisonment and to pay a fine of Rs.500/- for offence under Section 279 of IPC, to undergo one year simple imprisonment and to pay a fine of Rs.1000/- for offence under Section 304-A of IPC. The sentences are directed to run concurrently. Aggrieved over the same, the petitioner preferred an appeal in C.A.No.17 of 2023 before the learned I Additional District and Sessions Judge, Salem. The learned Sessions Judge, by judgment dated 22.09.2023, dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, the petitioner preferred a revision in Crl.R.C.No.465 of 2024 before this Court along with suspension of sentence



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petition.

3.During trial, on the side of the prosecution, PW1 to PW8 examined and marked Exs.P1 to P7. On the side of the defence, no witnesses examined and no documents marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, had convicted the petitioner as stated above, which was confirmed by the Appellate Court.

4.The contention of the learned counsel for petitioner is that the accident had taken place in the Highway proceeded towards Salem and it is a broad road, wherein at the same time two vehicles can proceed on the same directions. The path, which is adjacent to the center median is meant for slow moving vehicles. Since the accident had taken place in that part, it was held that the petitioner had driven the vehicle in a rash and negligent manner. The eyewitnesses in this case admitted that after hearing the noise they turned back and seen the accident and nobody had seen the accident proper. The trial Court relied on the evidence of PW2, who admits that he has not seen the occurrence proper. All the witnesses are interested witnesses and relatives of the deceased. Further the accident spot is near a tea shop but no public



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witnesses examined in this case. The trial Court as well as the Appellate Court not considered that it is the deceased, who contributed to the accident, who suddenly crossed the Highway and the petitioner to avoid the same had applied brake and the vehicle was dragged to the left corner and the accident occurred. In the rough sketch, there is no tyre marks given. Further, the Motor Vehicle Inspector also not visited the scene of occurrence to find out the tyre marks in this case. He further submitted that the petitioner is now surrendered before the trial Court and confined in Central Prison, Salem. Further submitted that the petitioner has arguable points and fair chance of success in this revision. Hence, he prays for granting suspension of sentence to the petitioner.

5.The learned Additional Public Prosecutor on the other hand filed his counter and submitted that the case of the prosecution is that on 27.12.2019 at about 21.00 hours, when the de-facto complainant namely, Manikanda Prabhu lodged a complainant before the respondent police by stating that on 27.12.2019 at about 6.30 hours his father namely Ponnudurai/deceased proceeding to a tea stall situated at Salem Bus stop, Periyakrishnapuram. At that time the accused namely Rajiv Gandhi driven his Eicher Vehicle bearing



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Registration No. TN 02 BQ 2347 in a rash and negligent manner and knocked down the deceased and sustained injuries on his head, hands and legs also sustained fracture injuries and died on the spot. Hence the complaint.

5.1.He further submitted that based on the above complaint, a case was registered in Yethapur Police Station in Crime No.447 /2019, u/s. 279, 304(A) IPC on 27.12.2019 at about 21.00 hours., by the then Special Sub Inspector of Police and the same was submitted before the then Inspector of Police and took up the case for investigation. During the course of investigation, the then Inspector of Police went to the scene of occurrence, drew rough sketch, prepared observation mahazar and also examined the witnesses and recorded their statements. Further submitted that on 27.12.2019, then Inspector of Police arrested accused and also seized his vehicle bearing Registration No.TN 02 BQ 2347 and recorded his confession in the presence of witnesses and released on Station Bail.

5.2.He further submitted that after completion of elaborate and detailed investigation, based on the witnesses statements, material evidence, on 20.10.2020 filed charge sheet against the accused persons before the Learned



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Judicial Magistrate Court, Athur and the same was taken on file vide C.C.No.2678 of 2020, dated:30.11.2020. In order to prove the case of the prosecution, the prosecution has examined 8 witnesses and marked 7 exhibits and no material objects marked. On the defence side, no witness examined, and no exhibits marked. On conclusion of trial, the learned Judicial Magistrate No.I, Attur, by its judgment dated 30.12.2022 in C.C.No.267 of 2020 convicted the petitioner as stated above. Aggrieved over the above said conviction and sentence, the petitioner/accused filed Criminal Appeal in C.A.No.17/2023, before the I Additional District and Sessions Judge, Salem. The learned Sessions Judge judgment duly confirmed judgment of the Judicial Magistrate No.1, Attur in C.C.No.267 of 2020, dated:30.12.2022 on 22.09.2023.

5.3.Further he submitted that the prosecution proved the case beyond all reasonable doubts. Both the Courts below have accepted the prosecution case and imposed punishment on the petitioner/appellant/accused. There is no valid point available for the petitioner to argue the matter. There is no perversity, illegality and impropriety of the concurrent findings of the courts below. He further submitted that the petitioner has surrendered before the trial Court and now confined in Central Prison, Salem and prays for dismissal



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of the petition.

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6.Considering the facts and circumstances of the case and also considering the fact that the petitioner has now surrendered before the trial Court and he is confined in Central Prison, Salem, this Court is inclined to grant bail to the petitioner.

7.Accordingly, the relief of suspension of sentence and bail are granted on the following conditions till the disposal of the above Criminal revision:

(a) The petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Attur.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial



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Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

8. Accordingly, this Criminal Miscellaneous Petition is ordered.

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To
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- 1.The Inspector of Police,
Yethapur Police Station,
Salem.
- 2.The Judicial Magistrate No.I,
Attur.
- 3.The I Additional District and Sessions Judge,
Salem.
- 4.The Superintendent,
Central Prison, Salem.
- 5.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

rsi

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