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Crl.R.C.No. 54 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.R.C.No.54 of 2024

Kumaresan

... Petitioner

Vs

The State Rep. by,
The Inspector of Police,
Karimangalam Police Station,
Dharmapuri District, Cr.No. 91/2015.

... Respondent

Prayer: Criminal Revision Case filed under Section 397 and 401 of Code of Criminal Procedure, 1973, to call for the records relating to the judgment dated 12.12.2023 passed by the learned Principal Sessions Judge at Dharmapuri in Crl.A.No.34 of 2022 conforming the judgment and sentence dated 10.10.2020 passed in C.C.No.129 of 2016 on the file of the learned Judicial Magistrate, Palacode and set aside the same, thereby acquit the appellant.

For Petitioner : Mr.A.Sakthivel

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

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This Criminal Revision Petition is filed against the judgment of the learned Judicial Magistrate, Palacode, dated 10.10.2020 made in C.C. No. 129 of 2016, and the judgment dated 12.12.2023 made in Criminal Appeal No. 34 of 2022 by the learned Principal Sessions Judge at Dharmapuri.

2. By the aforesaid judgment, the Trial Court found the petitioner guilty of an offence under Section 279 of Indian Penal Code (IPC), 1860 and sentenced him to undergo simple imprisonment for one month; for an offence under Section 337 of IPC (3 counts) and sentenced him to undergo simple imprisonment for a period of one month for each of the counts; for the offence punishable under Section 304(A) of IPC (2 counts) and sentenced him to undergo simple imprisonment for a period of one year for each count, and directed the sentences to run concurrently. The Appellate Court confirmed the finding of guilt and sentence and dismissed the appeal.

3. The case of the prosecution is that on 22.02.2015, at about 11:40 p.m., in Dharmapuri to Krishnagiri four-lane road at Agaram junction, P.W.1, *Prabhakaran*, who was the driver of the Tamil Nadu State Transport Corporation bus bearing Registration No. TN-29-N-2287, had stopped the bus



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on the left side of the road and the passengers were alighting from the bus. At that time, the accused drove the crane vehicle bearing Registration No. TN-20-BZ-2584 in a rash and negligent manner and dashed against the bus from behind, resulting in the death of two passengers and injury to three passengers who were sitting in the back row of the bus. A complaint to the above effect was lodged by P.W.1 and the case was registered in Crime No. 91 of 2015 for the offences under Sections 279, 337 and 304(A) IPC. P.W.11 took up the investigation and after completing the investigation, laid the final report proposing the accused guilty of the offences.

4. Upon the case being taken on file and issue of summons, copies were furnished and on questioning, the accused denied the imputations and stood for trial. In order to prove the allegations, the prosecution examined P.W.1 to P.W.11 and Exhibits P1 to P13 were marked. Upon being questioned about the incriminating evidence and material circumstances on record under Section 313 of Code of Criminal Procedure, 1973, the accused denied the same as false. Thereafter, no evidence was let in on behalf of the defence.

5. The Trial Court considered the case of the prosecution. It held that by



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examining the driver of the bus, the injured witnesses and the eyewitnesses, the prosecution had proved the charges beyond reasonable doubt. It considered the defence of the accused that the bus stopped in the middle of the road and concluded that such defences cannot be accepted and convicted and sentenced the accused as aforesaid. The petitioner/accused filed an appeal, and the Appellate Court, once again on re-appreciation of evidence, confirmed the conviction and sentence imposed on the accused, against which this Revision is filed.

6. *Mr.A.Sakthivel*, the learned counsel appearing on behalf of the petitioner, would submit that a perusal of the rough sketch would clearly show that the accident happened near the junction. Immediately after the crossroad, there is a service road in which P.W.1 was supposed to have stopped the bus and permitted the passengers to alight. On the contrary, P.W.1 stopped the bus in the middle of the road, which resulted in the accident. It must further be seen that the accident happened during the midnight. During the midnight when there is no traffic at all, when the crane was proceeding with reasonable speed and care, suddenly on account of the erroneous act of P.W.1 in stopping the bus in the middle of the road, coupled with the fact that visibility is less during night-



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time, the accident happened, the same is not due to any rash and negligent driving of the accused. The accused being a crane driver, normally used to drive the vehicle only at a slow speed. One can visualise that at midnight, i.e., 11:40 p.m., when there is no traffic at all, the crane could proceed at a reasonable speed and only because the bus suddenly stopped in the middle of the road, the accident happened. Further, the learned counsel pointed out the contradictions in the evidence of the prosecution witnesses in this regard and submitted that this Court should acquit the accused.

7. Per contra, *Mr.S.Vinoth Kumar*, the learned Government Advocate (Crl. Side), by pointing out the high-mast lamp mentioned in the rough sketch, submitted that it is a crossroad where buses normally stop for passengers to get in and alight. It is true that ideally the bus should take the service lane and stop, but the normal practice during night-time is to stop on the left side of the main road itself and it cannot be contended by the accused that there was no visibility. Obviously, the accused did not drive the vehicle with the reasonable care expected of him and dashed from behind. The very fact that the five persons sitting in the last row suffered grievous injuries and two of them succumbed to death would itself show the manner of impact and the rashness



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and negligence on the part of the accused. When the prosecution has proved the charges beyond reasonable doubt, there is nothing for this Court to interfere with in the exercise of revisional jurisdiction.

8. I have considered the rival submissions made on either side and perused the material records.

9. It is true that P.W.1 erred in stopping the bus on the left side of the main road instead of taking the service lane and stopping the bus there so that the passengers could alight and get into the bus. The rough sketch clearly shows that there was a way for P.W.1 to have done so at the Agaram Road junction itself. However, as is common in traffic, the violation of road regulations in this country is frequent. It is common knowledge that on every highway having a four-lane road, from the outskirts of Chennai city to the end of the four-lane stretch, Government bus drivers and other bus drivers think it fit to use the main road also by stopping the bus on the left-hand side of the road and making passengers alight and board.

10. It is a common sight in this country that on the medians between the service road and the main road, passengers wait with their luggage to board



buses, and these medians virtually serve as bus stops. The freedom guaranteed to the people of this country is often equated with the act of violating traffic regulations. To an extent, I am in agreement with the learned counsel for the petitioner that this contributed to the accident. But at the same time, the junction is fitted with two high-mast lights on either side diagonally. It is common knowledge that these crossroads are well lit even in the middle of the night, as there will be shops and people waiting to get into buses and the junctions will be busy even during midnight, though not as busy as during daytime. In this background, it is not that the crane just touched the bus from behind; it can be seen that the impact was heavy, leading to the death of two persons and injury to three persons. Therefore, the manner in which the crane was driven and the impact on the rear side of the bus have to be taken into account and any driver is well accustomed to the fact that buses stop on the road abutting the median.

11. It can also be seen that there was further space on the road for the crane to avoid the bus, as the road width between the centre median and the side median is shown as 24 feet in that place. Be that as it may, the Hon'ble Supreme Court of India in *Alister Anthony Pareira Vs. State of Maharashtra*¹ more specifically in paragraph No. 37 to 39 has explained the concept of

¹ (2012) 2 SCC 648



culpable rashness and culpable negligence and the same is extracted hereunder

for ready reference:-

“37. In Empress of India v. Idu Beg [ILR (1881) 3 All 776] Straight, J. explained the meaning of criminal rashness and criminal negligence in the following words: (ILR pp. 779-80)

“... criminal rashness is hazarding a dangerous or wanton act with the knowledge that it is so, and that it may cause injury, but without intention to cause injury, or knowledge that it will probably be caused. The criminality lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which, having regard to all the circumstances out of which the charge has arisen, it was the imperative duty of the accused person to have adopted.”

The above meaning of criminal rashness and criminal negligence given by Straight, J. has been adopted consistently by this Court.

38. Insofar as Section 304-A IPC is concerned, it deals with death caused by doing any rash or negligent act where such death is caused neither intentionally nor with the knowledge that the act of the offender is likely to cause death. The applicability of Section 304-A IPC is limited to rash or negligent acts which cause death but fall short of culpable homicide amounting to murder or culpable homicide not amounting to murder. An essential element to attract Section 304-A IPC is death caused due to rash or negligent act. The three things which are required to be proved for an offence under Section 304-A are:

- (1) death of human being;*
- (2) the accused caused the death; and*
- (3) the death was caused by the doing of a rash or negligent act, though it did not amount to culpable*



homicide of either description.

39. Like Section 304-A, Sections 279, 336, 337 and 338 IPC are attracted for only the negligent or rash act. The scheme of Sections 279, 304-A, 336, 337 and 338 leaves no manner of doubt that these offences are punished because of the inherent danger of the acts specified therein irrespective of knowledge or intention to produce the result and irrespective of the result. These sections make punishable the acts themselves which are likely to cause death or injury to human life.”

(Emphasis supplied)

12. It is not driving at a very high speed alone or colliding head-on that will amount to culpable rashness or culpable negligence, but the essence is whether the driver exercised the reasonable care expected of him. When that is found lacking in the present petitioner, I am of the view that the ultimate finding of guilt recorded by the Trial Court and the Appellate Court cannot be interfered with.

13. Considering the sentence imposed, it can be seen that after the accident and after the appeal was dismissed, the accused was in custody for a total period of 17 days. The manner of the accident as noted above, is taken into account. It is not due to any egregious or aggravated misconduct but due to human error in not taking reasonable care and not avoiding the impact/collision



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from behind. It can also be seen that the accused has been facing proceedings from 2015, for the past 10 years. The accused is now aged 38 years. The accused is married to one *Maheshwari* and has two children, *Dharanish* and *Madhan Kumar*, who are studying in the 8th and 10th standards respectively and the petitioner is stated to be the sole breadwinner of the family. It is also stated that dependents of the deceased persons have filed claim petitions and compensation has been awarded. The injured have also received compensation relating to the accident.

14. In view of the above, the sentence is modified as follows:

(i) The finding of guilt for the offences under Sections 279, 337 (3 counts) and 304A (2 counts) recorded by the Trial Court in C.C.No. 129/2016 dated 10.10.2020 and the Appellate Court in Crl.A.No. 34 of 2022 dated 12.12.2023 is confirmed.

(ii) For the offence under Section 279 of IPC, the punishment imposed by the Courts above is modified and the accused is imposed a fine of Rs. 1,000/-.



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(iii) For the offence under Section 337 of IPC (3 counts), the sentence imposed by the Trial Court is modified and a fine of Rs. 2,000/- for each count, totalling Rs. 6,000/-, is imposed.

(iv) For the offence under Section 304(A) of IPC, the punishment is modified to the effect that the sentence of imprisonment shall be the period already undergone and the accused shall pay an additional fine of Rs. 8,000/-.

(v) In total, the petitioner/accused shall pay a fine of Rs. 15,000/- and in default of payment of fine, shall undergo simple imprisonment for a period of one week. The fine amount shall be paid within three weeks from the date of the order.

15. Accordingly, this Criminal Revision Case is partly allowed.

18.11.2025

Neutral Citation: No
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D.BHARATHA CHAKRAVARTHY, J.

ns1

To

1. The Principal Sessions Court,
Dharmapuri.
2. The Judicial Magistrate Court,
Palacode.

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18.11.2025