



CrI.R.C.No. 260 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C.No. 260 of 2025

Neelakandan
S/o. Bhaskaran

... Petitioner

Vs

The State of Tamil Nadu
Rep. by the Inspector of Police,
Palacode Police Station,
Dharmapuri District.
(Crime No. 244 of 2018)

... Respondent

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of Cr.PC and 438 r/w 442 of BNSS, to set aside the judgment dated 27.09.2024 in C.A.No. 7 of 2024 on the file of the Principal Sessions Judge, Dharmapuri, confirming the judgement dated 04.10.2023 in C.c.No. 90 of 2020 on the file of the Judicial Magistrate, Palacode.

For Petitioner : Mr. R.Selvakumar
For Respondent : A.Gopinathan, GA (CrI.side)

ORDER

This Revision Petition has been preferred against the judgement passed in CrI.Appl. No.7 of 20204 dated 27.09.2024 on the file of the Principal



Cr.L.R.C.No. 260 of 2025

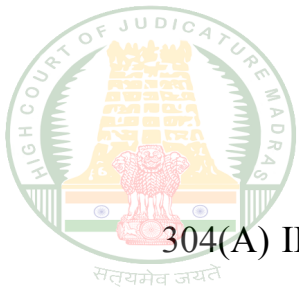
Sessions Judge, Dharmapuri, thereby confirming the order of conviction and

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sentence imposed by the trial Court in C.C.No.90 of 2020 dated 05.10.2023 on the file of Judicial Magistrate, Palacode, for the offences punishable under Section 279, 337, and 304 (A) IPC.

2. The case of the prosecution is that on 16.11.2018, at about 8.00 a.m., on Hosur–Palacode Road near Madhampatti Dhanraj's house, the victims were travelling in a goods carriage vehicle bearing Reg. No. TN 82-D-7605 driven by the petitioner/accused. The accused drove the vehicle in a rash and negligent manner and suddenly applied the brake, due to which the vehicle capsized. As a result, the victims sustained grievous injuries, and one passenger, namely Chinnappa, succumbed to the injuries. The respondent police registered a case in Crime No. 244 of 2018 for the offences punishable under Sections 279, 337 (six counts), and 304(A) IPC.

3. In order to prove the charges, the prosecution examined 13 witnesses as PW1 to PW13 and marked 14 documents as Exhibits P1 to P14. The accused/petitioner did not examine any witness nor produce any documents on his side. The trial Court, after considering the evidence, found the petitioner guilty of the offences punishable under Sections 279, 337 (six counts), and



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304(A) IPC. For the offence under Section 279 IPC, the trial Court imposed a sentence to undergo simple imprisonment for a period of one month and for the offence under Section 337 IPC (six counts), the trial Court imposed a sentence of simple imprisonment for a period of one month for each count, and for the offence under Section 304(A) IPC, imposed a sentence of simple imprisonment for one year. The trial Court directed the sentences to run concurrently and granted the benefit of set-off under Section 428 Cr.P.C. Aggrieved by the said judgment, the petitioner preferred an appeal, which was dismissed, confirming the conviction and sentence. Hence, the present revision has been filed.

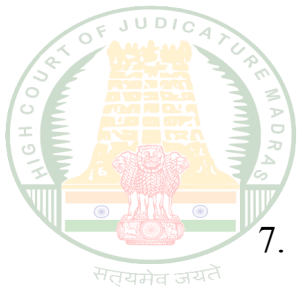
4. Learned counsel for the petitioner submitted that the petitioner was driving a four-wheeler goods carriage and, while negotiating a sharp turn, he applied a sudden brake, causing the vehicle to capsize. The passengers fell down, sustained injuries, and unfortunately, one person died. It was further submitted that the prosecution failed to inspect the vehicle at the scene of occurrence. Since the vehicle had already capsized and was later removed by another vehicle for motor vehicle inspection, there were possibilities of further damage. The accident could have occurred due to brake failure while swerving in the normal course of vehicular movement, and therefore, no element of human negligence could be attributed to the petitioner.



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5. Learned counsel for the petitioner further contended that except for the passengers travelling in the vehicle, no independent witnesses were examined by the prosecution, which is fatal to the case. Moreover, the owner of the vehicle, who had engaged the petitioner as a driver, was not examined. Therefore, the conviction cannot be sustained. It was also pointed out that the petitioner had already undergone more than two months of imprisonment.

6. Per contra, the learned Government Advocate submitted that the contradictions pointed out by the petitioner do not affect the prosecution case. The injured victims, who travelled in the vehicle, categorically deposed that the accident occurred due to the rash and negligent driving of the petitioner, and one of the passengers, Chinnappa, later died in the hospital. The evidence of the victims was cogent and consistent. Further, the victims had cautioned the driver to reduce speed, but the petitioner drove the vehicle at an uncontrollable speed and applied a sudden brake, which resulted in the vehicle capsizing. The motor vehicle inspector's report also corroborates the prosecution version. Hence, the trial Court rightly convicted and sentenced the petitioner, which was confirmed by the appellate Court, and no interference is warranted.



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available on record.

7. Heard the submissions made on either side and perused the materials

8. A perusal of the records reveals that the petitioner drove a goods carriage vehicle carrying passengers and, while negotiating a sharp turn, applied a sudden brake in a rash and negligent manner, due to which the vehicle capsized. The victims, namely Muniyammal, Vasantha, Madhu, another Madhu, Muniyammal, and Sangoothiyammal, sustained injuries, and one passenger, Chinnappa, succumbed to the injuries. Accordingly, the petitioner was prosecuted for the offences under Sections 279, 337 (six counts), and 304(A) IPC.

9. The contradictions and discrepancies pointed out by the petitioner are not fatal to the prosecution case. The injured victims were examined as prosecution witnesses, and if their evidence is trustworthy, the prosecution need not examine any independent witnesses. The injured victims also deposed that the petitioner drove the vehicle rashly and negligently despite their caution and applied a sudden brake, which led to the accident. In such circumstances, the maxim *res ipsa loquitur* comes in to play, raising a presumption that the accident occurred only due to the rash and negligent driving of the petitioner.



10. In this context, it is useful to reply upon the decision of the Hon'ble

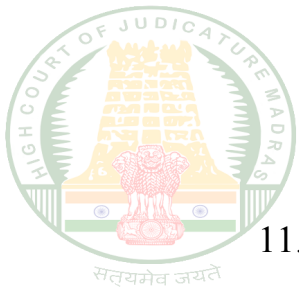
Supreme Court reported in **2012 9 SCC 284 in the case of Ravi Kapur Vs.**

State of Rajasthan.

“(A) Rash and negligent driving

Rash and negligent driving has to be examined in light of the facts and circumstances of a given case. It is a fact incapable of being construed or seen in isolation. It must be examined in light of the attendant circumstances. A person who drives a vehicle on the road is liable to be held responsible for the act as well as for the result. It may not be always possible to determine with reference to the speed of a vehicle whether a person was driving rashly and negligently. Both these acts presuppose an abnormal conduct. Even when one is driving a vehicle at a slow speed but recklessly and negligently, it would amount to ‘rash and negligent driving’ within the meaning of the language of Section 279 IPC. That is why the legislature in its wisdom has used the words ‘manner so rash or negligent as to endanger human life’. The preliminary conditions, thus, are that (a) it is the manner in which the vehicle is driven; (b) it be driven either rashly or negligently; and (c) such rash or negligent driving should be such as to endanger human life. Once these ingredients are satisfied, the penalty contemplated under Section 279 IPC is attracted.

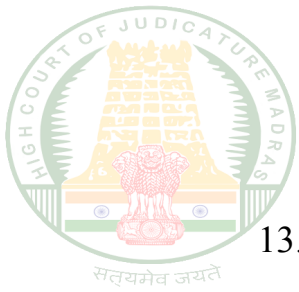
‘Negligence’ means omission to do something which a reasonable and prudent person guided by the considerations which ordinarily regulate human affairs would do or doing something which a prudent and reasonable person guided by similar considerations would not do. Negligence is not an absolute term but is a relative one; it is rather a comparative term. It is difficult to state with precision any mathematically exact formula by which negligence or lack of it can be infallibly measured in a given case. Whether there exists negligence per se or the course of conduct amounts to negligence will normally depend upon the attending and surrounding facts and circumstances which have to be taken into consideration by the Court. In a given case, even not doing what one was ought to do can constitute negligence”



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11. In the light of the above, it has to be verified that if negligence in the case of an accident can be gathered from the attendant circumstances, the doctrine of res ipsa loquitur is equally applicable to the cases of accident and not merely to the civil jurisprudence. Thus, these principles can equally be extended to criminal cases provided the attendant circumstances and basic facts are proved. Either the accident must be proved by proper and cogent evidence or it should be an admitted fact before this principle can be applied. This doctrine comes to aid at a subsequent stage where it is not clear as to how and due to whose negligence the accident occurred. The factum of accident having been established, the Court, with the aid of proper evidence, may take assistance of the attendant circumstances and apply the doctrine of res ipsa loquitur.

12. In the present case, seven persons travelled in a goods carriage vehicle driven by the petitioner. Six of them sustained injuries, and one died in the accident. The manner in which the accident occurred clearly attracts the doctrine of res ipsa loquitur, as explained by the Hon'ble Supreme Court in ***Ravi Kapur v. State of Rajasthan [(2012) 9 SCC 284]***. Once the factum of accident and injuries is established, the burden shifts to the petitioner to prove that the accident was not the result of his rash or negligent act.



13. The petitioner has not produced any cogent evidence to show that the accident was caused by factors beyond his control, such as mechanical failure or external interference. On the contrary, the evidence of the injured witnesses consistently proves that the vehicle was driven at an excessive speed despite their caution, and the sudden application of the brake led to the capsizing of the vehicle. Therefore, the Courts below were correct in holding that the prosecution has established the charge of rash and negligent driving beyond reasonable doubt.

14. This Court finds no perversity or illegality in the concurrent findings of the trial Court and the appellate Court with regard to conviction. However, considering the age of the petitioner, the fact that he has already undergone more than two months of imprisonment, and balancing the need for deterrence with the principles of reformatory justice, this Court is inclined to modify the sentence imposed by the Courts below.

15. Accordingly, while upholding the conviction under Sections 279, 337 (six counts), and 304(A) IPC, the substantive sentence of one year simple imprisonment imposed for the offence under Section 304(A) IPC is modified to the period of imprisonment already undergone, on the condition that the



Cr.L.R.C.No. 260 of 2025

petitioner shall pay a sum of Rs.10,000/- each to the six injured victims and Rs.25,000/- to the legal heirs of the deceased and produce the receipts for the payment before the respondent-police, within a period of one month from the date of receipt of a copy of this order. On failure to comply with the conditions, the conviction and sentence imposed by the trial Court and confirmed by the appellate Court shall stand automatically restored. The registry shall secure the petitioner in order to undergo the remaining period of sentences as awarded by the Courts below.

16. With the above modification, the Criminal Revision Case is partly allowed.

20.08.2025

Index : Yes/No
Neutral citation : Yes/No
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To

1. The Principal Sessions Judge, Dharmapuri.
2. The Judicial Magistrate, Palacode
3. The Inspector of Police, Palacode Police Station,
Dharmapuri District.
4. The Public Prosecutor, Madras High Court,



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CrI.R.C.No. 260 of 2025

G.K.ILANTHIRAIYAN, J.
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CrI.R.C.No. 260 of 2025

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