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Crl.R.C.No.426 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.426 of 2023
and Crl.M.P.Nos.3223 & 3225 of 2023

Saravanan

... Petitioner

Vs.

The State,
Represented by the Investigation Wing,
1/C Sooramangalam,
Salem City.

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w Section 401 Cr.P.C. to allow this Criminal Revision Petition and set aside the judgment of conviction in C.A.No.76 of 2022 on the file of the 1st Additional District and Sessions Judge, Salem dated 14.12.2022 confirming the judgment of conviction imposed in C.C.No.481 of 2022 on the file of the Chief Judicial Magistrate, Salem dated 17.08.2022.

For Petitioner : M/s.Charles Kamalesh M.Appaji

For Respondent : Mr.A.Gopinath
Government Advocate (Criminal Side)

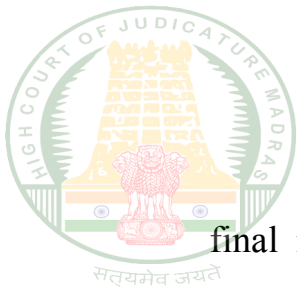


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ORDER

WEB COPY This Criminal Revision Case has been preferred as against the judgment passed by the 1st Additional District and Sessions Judge, Salem, in C.A.No.76 of 2022 on 14.12.2022, whereby confirming the judgment of conviction and sentence imposed in C.C.No.481 of 2022 on the file of the Chief Judicial Magistrate, Salem dated 17.08.2022 for the offence under Sections 279, 337 & 304 (A) of IPC.

2. The case of the prosecution is that on 05.05.2015, PW1 was riding his motorcycle along with his wife and child in a Siddhar Kovil main road towards Thirumagal bypass. At about 9.00 a.m., when he was near Konerikarai Sivashanmuga Weigh bridge, a lorry coming from the opposite direction suddenly turned to the right towards weighbridge. The accused, who was driving a bus behind the lorry, dashed against PW1's two wheeler, while driving the bus in a rash and negligent manner. Due to this impact, PW1's wife was thrown out to her right side and the rear wheel of the bus ran over her. As a result, she sustained grievous injuries and died. PW1 and his child also sustained injuries. On the complaint given by PW1, the respondent registered the First Information Report in Crime No.369 of 2015 for the offences under Sections 279, 337 & 304 (A) of IPC. After completing the investigation, the respondent filed the



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final report and the same was taken cognizance by the trial court in

WEB COPY C.C.No.481 of 2022.

3. On the side of the prosecution, in order to bring the charges to home, the witnesses PW1 to PW10 were examined and Exhibits Ex.P1 to Ex.P11 were marked. The prosecution also produced a material object M.O.1. On the side of the defence, no one was examined and no documents were marked. On perusal of the oral and documentary evidence, the trial court found the petitioner/accused guilty and sentenced him as follows :-

Under Section	Sentence
279 of IPC	three months rigorous imprisonment and a fine of Rs.500/-, in default, to undergo ten days simple imprisonment.
337 of IPC	three months rigorous imprisonment and a fine of Rs.500/-, in default, to undergo ten days simple imprisonment.
304A of IPC	One year rigorous imprisonment and a fine of Rs.15,000/-, in default, to undergo three months days S.I.

Aggrieved by the same, the petitioner preferred an appeal, which was also dismissed, thereby confirming the conviction and sentence imposed by the trial Court. Against the same, the present criminal revision has been filed.

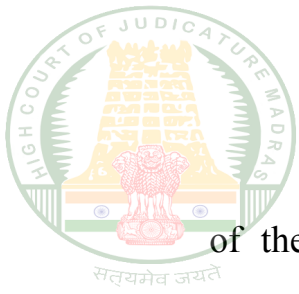


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4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) for the respondent and perused the materials available on record.

5. The de facto complainant, who was the rider of the motorcycle, was examined as PW1. In his deposition, PW1 stated that while the lorry coming from the opposite side all of a sudden turned on to its right to reach weighbridge, he stopped his motorcycle. The bus, which was driven by the petitioner in a rash and negligent manner behind the lorry, hit the right-side handlebar of PW1's two wheeler, which was already stopped due to the lorry's sudden turn. As a result, the pillion rider namely, PW1's wife, fell on the right side under the rear wheel of the bus, which ran over her, causing her to sustain grievous injuries and eventually die.

6. From PW1's deposition, it is seen that PW1 was riding his two-wheeler and stopped on the road due to the lorry's sudden turn. When the petitioner, who was driving his bus just behind the lorry, on noticing that the lorry had slowed down and turned to its right side, he proceeded his bus towards left hand side of the road and hit on the right-side handle bar



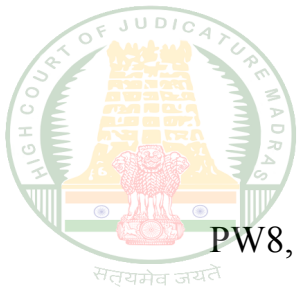
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of the two wheeler. Probably, the petitioner did not notice the two wheeler, which was stopped by PW1 in the middle of the road, because the lorry had suddenly turned to its right side to reach the weighbridge.

7. PW4, who is the Conductor of the bus driven by the petitioner, has not supported the case of the prosecution and was treated as a hostile witness. A perusal of his deposition reveals that neither the petitioner nor any of the passengers of the bus, including PW4, noticed the bus hitting the right side handle bar of the two wheeler. According to PW4, the two wheeler was hit by the lorry, which caused the accident.

8. Except the conductor of the bus/PW4, no other passengers who traveled in the bus were examined by the prosecution to support its case. Therefore, the prosecution failed to prove that the accident was occurred due to the rash and negligent driving of the petitioner. Admittedly, the wife of PW1 fell under the rear wheel of the bus, therefore the petitioner did not notice that the victim fell from the two wheeler.

9. The vehicle driven by the petitioner was subjected to motor vehicle inspection. The Motor Vehicle Inspector, who was examined as



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PW8, examined the bus and certified that the accident did not occurred due to any mechanical defects in the bus. The Motor Vehicle Inspection Report in respect of the bus was marked as Ex.P10. Further, in column 12 of Ex.P10, regarding the details of damage sustained by the vehicle due to accident, it was mentioned that there was no damages. Therefore, there is no evidence to show that the bus driven by the petitioner had hit the PW1's two wheeler. At the same time, the two wheeler driven by PW1 was also subjected to motor vehicle inspection and its Motor Vehicle Inspection Report was marked as Ex.P9. In which, it is mentioned that the front side indicator was damaged and head light mask had some scratches.

10. Another eyewitness, who was examined as PW2, stated in his deposition that when the lorry suddenly turned on its right side to reach the weigh bridge, PW1 stopped his two wheeler in the middle of the road in front of the lorry. Consequently, the bus coming behind the lorry hit the right side handle bar of the two wheeler. As a result, the deceased fell down on her right side in the middle of the road and the right side rear wheel of the bus ran over her.



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11. Hence, in view of the above, it cannot be said that the accident

occurred only due to the rash and negligent driving of the petitioner.

Three vehicles were involved in this case. The lorry, which suddenly turned to its right side; the two wheeler, which was driven by PW1 that stopped in the middle of the road and the bus driven by the petitioner, who proceeded without noticing the two wheeler that was in front of the lorry. Therefore, the prosecution has miserably failed to prove the charges as against the petitioner without any reasonable doubt. Unfortunately, the trial Court and the appellate Court without considering the above facts and circumstances, wrongly concluded that the petitioner is liable to be punished for the charges framed against him.

12. From the above facts and circumstances of the case, this Court is of the view that the benefit of doubt goes in favour of the accused/petitioner. Consequently, the impugned order cannot be sustained and is liable to be set aside.

13. Accordingly, the judgment of conviction and sentence imposed on the petitioner in C.A.No.76 of 2022 on the file of the 1st Additional District and Sessions Judge, Salem dated 14.12.2022 confirming the



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judgment of conviction imposed in C.C.No.481 of 2022 on the file of the
Chief Judicial Magistrate, Salem dated 17.08.2022, is hereby set aside.

14. The appellant is acquitted from all charges in C.C.No.481 of 2022 dated 17.08.2022 on the file of the Chief Judicial Magistrate, Salem. The appellant is directed to be set at liberty forthwith unless his custody is otherwise required in connection with any other case. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed by the appellant shall stands cancelled.

15. In view of the above, the Criminal Revision Case No.426 of 2023 stands allowed. Consequently, connected miscellaneous petitions are closed.

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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1. The 1st Additional District and Sessions Judge,
Salem.
2. The Chief Judicial Magistrate,
Salem.
3. The Investigation Wing,
1/C Sooramangalam,
Salem City.
4. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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