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Crl.R.C.No.297 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.297 of 2025
and
Crl.M.P.Nos.2739 and 2740 of 2025

Sudhakar

... Petitioner

..VS..

The State rep.by
The Inspector of Police,
Virinchipuram Police Station,
Vellore District,
Crime No.08 of 2020.

... Respondent

Criminal Revision Case filed under Sections 438 read with 442 of BNSS, to call for the entire records and set aside the judgment in C.A.No.37 of 2024 dated 28.01.2025 passed by the learned Principal District and Sessions Judge, Vellore, Vellore District which confirmed the judgment in C.C.No.361 of 2020 dated 16.05.2024 on the file of the Judicial Magistrate No.4, Vellore.

For Petitioner	:	Mr.T.Saravanan
For Respondent	:	Mr.S.Sugendran Additional Public Prosecutor



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ORDER

The Criminal Revision petition has been filed against the judgment dated 28.01.2025 passed in Crl.A.No.37 of 2024 by the learned District and Sessions Judge, Vellore, confirming the judgment of conviction and sentence order passed in C.C.No.361 of 2020 dated 16.05.2024 by the learned Judicial Magistrate-IV, Vellore.

2. The case of the prosecution is that on 08.01.2020 at about 7.15 a.m., one Venkatesan was riding his two wheeler Hero Honda Splendor Plus bearing Registration No.TN 05 X 7456 from Bangalore to Chennai National Highways at Poigai over bridge on the left side, at that time, the petitioner, who drove Ashok Leyland Lorry bearing Registration No.TN 23 CE 5605 behind the deceased, came in a rash and negligent manner and had overtaken the vehicle of the deceased and suddenly drove on the right side and then back to the left side without giving any indication or horn and thereby, the said Venkatesan hit the lorry. Due to the said impact, the rider of the two wheeler sustained head injury and admitted in the hospital, and later he died and thereby, the accused has committed an



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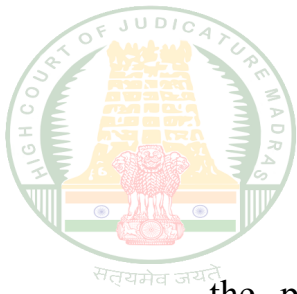
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offences under Sections 279 and 304 A IPC and thereby, a case in Crime No.8 of 2020 was registered against the petitioner.

3. After receipt of the final report, the learned Magistrate questioned the accused for the charges under Sections 279 and 304 A IPC on 06.01.2021, which was denied by the accused and pleaded not guilty and to be tried.

4. In order to prove the case before the trial Court, on the side of the prosecution, as many as 9 witnesses were examined as P.W.1 to P.W.9 and 9 documents were marked as Exs.P1 to P9. On the side of the defence, no oral evidence was adduced and no documentary evidence was produced.

5. The *de-facto* complainant-Murugan and one Periyappa were cited as eye witnesses and they were examined as P.W.1 and P.W.2. Based on the evidence of eye witnesses, medical evidence and motor vehicles' inspection report, the trial Court came to the conclusion that



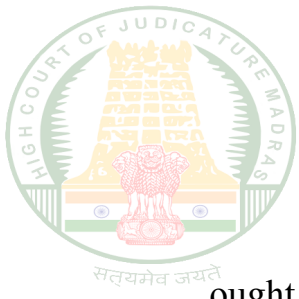
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the prosecution proved its case beyond reasonable doubt and the petitioner was found guilty for the offences under Sections 279 and 304.A IPC and convicted and sentenced him as under :

<i>Offence</i>	<i>Sentence</i>
Section 279 IPC	Fine of Rs.1,000/-.
Section 304A IPC	to undergo simple imprisonment for a period of six months and to pay a fine of Rs.2,000, in default, to undergo simple imprisonment for one week.

6. Challenging the said judgment of conviction and sentence, the petitioner preferred an appeal in Crl.A.No.37 of 2024 before the learned Principal Sessions Judge, Vellore. The Appellate Court had re-appreciated the entire materials and dismissed the appeal and confirmed the conviction and sentence passed by the trial Court. Aggrieved by the same, the petitioner has filed the present revision before this Court.

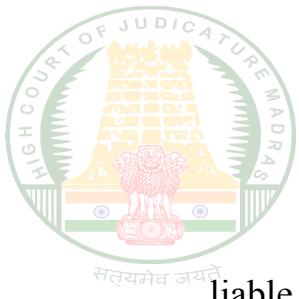
7. Learned counsel for the petitioner submitted that P.W.1 and P.W.2 are the relatives to the deceased and they are not eye witness to the occurrence. If at all they were eye witness to the said occurrence, they



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ought to have gone along with the deceased to the Government Hospital in "108 Ambulance". However, the Accident Register does not show that P.W.1 and P.W.2 brought the deceased to the hospital. The trial Court failed to consider the fact that the investigating officer in the rough sketch mentioned that no tyre marks have been present in the scene of occurrence. If any accident occurs due to rash and negligent manner, there would have been some tyre marks in the scene of occurrence. He further submitted that there are discrepancies and contradictions in the evidence of the prosecution witnesses regarding the alleged accident and the same has not been proved in the manner known to law. P.W.1 and P.W.2, who were cited as eye witnesses, are the chance witnesses, and in order to get compensation from the petitioner, they set up a false case. Further, the prosecution has not proved that the petitioner drove the vehicle in a rash and negligent manner and caused accident and that the deceased succumbed to the injuries. Unfortunately, the appellate Court failed to re-appreciate the entire materials and simply confirmed the order of the Court below and dismissed the appeal. Therefore, the judgment of conviction and sentence passed by the Courts below, is



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liable to be set aside and the revision may be allowed.

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8. Learned Additional Public Prosecutor appearing for the respondent-Police submitted that soon after the accident, the victim was brought to the hospital and declared as dead. Based on the oral and documentary evidence, the prosecution proved that the accident had occurred due to rash and negligent driving of the accused. Both the Courts below have rightly appreciated the entire evidence and convicted and sentenced the petitioner for the charged offences. There is no merit in the revision and the same is liable to be dismissed.

9. Heard both sides and perused the materials available on record.

10. Admittedly, the petitioner himself admitted that, on the date of occurrence, he drove the vehicle viz., Ashok Leyland Lorry bearing Registration No.TN 23 CE 5605. However, the petitioner has denied that due to rash and negligent of his driving the accident had occurred and the deceased succumbed to injuries.

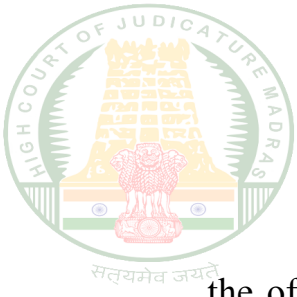


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11. The scope of revision is very limited. In the instance case, the Trial Court and the Lower Appellate Court had already appreciated and re-appreciated the entire evidence and also gave findings and while exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and re-appreciate the evidence. However, this Court has to see whether there is any perversity or infirmity in the judgments of the Courts below.

12. This Court, while re-appreciating the entire oral and documentary evidences, particularly, the evidence of P.W.1 and P.W.2 and Ex.P6 and Ex.P7 - Motor vehicles' reports, finds that the prosecution proved that the accident had occurred due to rash and negligent driving of the petitioner/accused. Therefore, this Court does not find any perversity in appreciation of evidence. There is no merit in the revision petition and the same is liable to be dismissed. However, considering the mitigating circumstances, this Court is of the opinion that the sentence imposed on the petitioner by the trial Court shall be modified from six months' simple imprisonment to three months simple imprisonment for



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the offence under Section 304(A) IPC, which will meet ends of justice.

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Accordingly, the same is hereby modified. The fine of Rs.1000/- imposed by the trial is confirmed. If the petitioner/accused is not in duress, the trial Court is directed to take appropriate steps so as to imprison him to serve the remaining period of sentence.

13. With the above modification, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

03.03.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Case Citation : Yes / No
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To

1. The Principal District and Sessions Judge,
Vellore, Vellore District.
2. The Judicial Magistrate No.4,
Vellore.
3. The Inspector of Police,
Virinchipuram Police Station,
Vellore District.
4. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J.

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