



Crl.R.C.No.387 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2025

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.387 of 2025

and

Crl.M.P.No.4131 of 2025

Venkatraman

... Petitioner

Vs.

The State represented by,
The Sub-Inspector of Police,
Marakanam Police Station,
Villupuram District.

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., read with 438 and 442 of BNSS, to set aside the conviction and sentence passed by the I Additional District and Sessions Judge, Tindivanam in Criminal Appeal No.51 of 2024 dated 21.02.2025 confirming the order dated 20.09.2024 passed in C.C.No.236 of 2013 by the learned Judicial Magistrate No.II, Tindivanam.

For Petitioner : Mr.V.Balamurugan

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



CrI.R.C.No.387 of 2025

WEB COPY

ORDER

This Criminal Revision Petition has been filed to set aside the judgment dated 21.02.2025 passed in Criminal Appeal No.51 of 2024 by the learned I Additional District and Sessions Judge, Tindivanam confirming the order dated 20.09.2024 passed in C.C.No.236 of 2013 by the learned Judicial Magistrate No.II, Tindivanam.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent-Police and perused the materials available on record.

3. The petitioner has filed this criminal revision petition against the judgment dated 21.02.2025 passed in Criminal Appeal No.51 of 2024 by the I Additional District and Sessions Judge, Tindivanam confirming the order dated 20.09.2024 passed in C.C.No.236 of 2013 by the learned Judicial Magistrate No.II, Tindivanam.



CrI.R.C.No.387 of 2025

WEB COPY

4. The respondent-Police registered a case against the petitioner for the offences under Sections 279, 337 IPC(13 counts), 338 IPC (8 counts) and 304(A) IPC. After completion of investigation, laid a charge sheet before the Judicial Magistrate Court No.II,Tindivanam. After completion of trial, the trial court convicted the petitioner and imposed fine of Rs.1,000/- for the offence under Section 279 IPC and fine of Rs.500/- (Rs.500 x 13 = Rs.6,500/-) for the offence under Section 337 IPC (13 counts) and fine of Rs.1,000/- (8 x Rs.1,000 = Rs.8,000) for the offence under Section 338 of IPC (8 counts), in default to undergo simple imprisonment for two weeks for each offences and sentenced to undergo simple imprisonment for one year and imposed fine of Rs.5,000/- for the offence under Section 304(A) IPC, in default to undergo simple imprisonment for one month. Aggrieved by the order of the trial court, the petitioner has filed Criminal Appeal No.51 of 2024 on the file of the I Additional District and Sessions Court, Tindivanam. The appellate Court, after hearing the appeal, dismissed the same and confirmed the conviction and sentence passed by the trial court.



CrI.R.C.No.387 of 2025

WEB COPY

Aggrieved by the same, the petitioner has filed this criminal revision petition.

5. The case of the prosecution is that on 12.08.2012 at 4.40 am, the petitioner/accused drove the Tamil Nadu State Transport Corporation bus bearing Registration No. TN-32-N-3665 from Pondicherry towards Chennai in a rash and negligent manner, dashed the stationary van bearing Registration No.PY01 S 5315 and further dashed the container lorry bearing Registration No. TN-73-A-339 and caused an accident, due to which, 13 passengers suffered simple injuries and 8 passengers suffered grievous injuries. Further, the driver of the container lorry died.

6. In order to substantiate the charges framed against the petitioner/accused, on the side of the prosecution, totally 22 witnesses were examined as P.W.1 to P.W.22 and 34 documents were marked as Ex.P1 to P34. On the side of the defence, no oral and documentary evidence was let in.



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7. Learned counsel for the petitioner/accused submitted that the petitioner is aged about 55 years and he is an experienced driver and no such untoward incident/accident occurred in these years . There is no eye witness for the occurrence. The occurrence took place in early morning. The petitioner has driven the vehicle in moderate speed. The accident did not occur due to rash and negligent driving of the petitioner. Evidence adduced by the prosecution is not trustworthy. P.Ws12, 13, 14 and 15 were not supported the case of the prosecution. At the time of accident, none of the witnesses have seen the alleged occurrence, since all the passengers were sleeping. All the witnesses have clearly stated that after hearing the noise, they woke up. None of the witnesses have stated that before the alleged occurrence, the petitioner was driving the bus in a rash and negligent manner. The case was registered against the petitioner only to get compensation from the Transport Corporation. The trial court without appreciating the evidence adduced by the prosecution, convicted the petitioner only on the injuries sustained by the victims. The appellate court has also failed to re-appreciate the evidence and materials on record, simply dismissed the petitioner's appeal. The



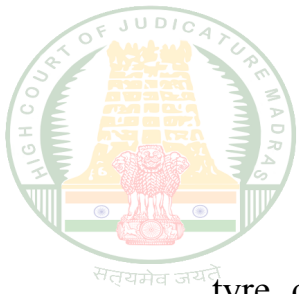
CrI.R.C.No.387 of 2025

WEB COPY

findings of both the Courts below are perverse and the same are liable to be set aside.

8. Learned Additional Public Prosecutor appearing for the respondent-Police submitted that the conductor who was travelling along with the petitioner/driver in the bus, is the eye witness to the occurrence, himself has spoken about the accident. The passengers who were travelling in the bus at the time of accident have spoken about the manner of accident and behaviour of the petitioner. The trial court rightly convicted the petitioner/accused and the appellate court has also confirmed the conviction and sentence passed by the trial court.

9. On a reading of the materials, it seen that P.W.1/complainant, in his evidence has stated that on 12.08.2012 at about 4.00 am, the de-facto complainant, who is the driver of Swaraj Mazda Mini lorry bearing Registration No.PY01 S 5315 was driving the said vehicle loaded with chickens on the ECR road from Chennai towards Pondicherry. When he reached the place of occurrence, the rear



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tyre of his vehicle bursted, due to which, his vehicle lost control, capsized in ditch on the side of the road. At that time, the bus bearing Registration No. TN-32-N-3665 driven by the petitioner/accused coming from Pondichery towards Chennai, dashed the stationary vehicle. He has not stated that the petitioner/accused has driven the vehicle in a rash or negligent manner. The liability can be fixed on the driver of the vehicle only when the accident would occur due to rash or negligent driving. None of the witnesses have spoken that the petitioner was driving the bus in a rash or negligent manner and due to which the accident had occurred. None of the witnesses have seen the accident. P.W.1 during cross-examination, has stated that he has not seen the bus at the time of accident. Further he has stated that after hearing the noise, he saw that the bus dashed the stationary van.

10. On a careful reading of evidence, it is seen that none of the witnesses have spoken that they have seen that the driver of the bus has driven the vehicle in a rash or negligent manner. The witnesses have not stated while they were travelling in the bus, they have not slept and they



CrI.R.C.No.387 of 2025

WEB COPY

have seen that the driver has driven the bus in a rash and negligent manner. Further, there is no such accident record as against the petitioner and he has completed unblemished service for several years. In view of the above, the petitioner is entitled to the benefit of doubt and the same should go in favour of the petitioner/accused. Therefore, the ingredients for the offence under Section 304(A) of IPC would not attract on the petitioner/accused.

11. This Court finds that the prosecution has not proved the guilt of the accused beyond all reasonable doubt. Unfortunately, both the Courts below failed to look into this aspect and convicted the petitioner. This Court finds reason to interfere with the order passed by the Courts below. Hence, conviction and sentence passed by the Courts below are set aside and the accused is acquitted of the said charges on the ground of benefit of doubt. Fine amount paid, if any, shall be refunded.



CrI.R.C.No.387 of 2025

WEB COPY

12. In view of the above, this Criminal Revision Petition is allowed. Consequently, connected miscellaneous petition is closed.

14.03.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

Note: Issue Order Copy on 14.03.2025

To

1. The I Additional District and Sessions Judge, Tindivanam.
2. The Judicial Magistrate No.II, Tindivanam.
3. The Sub-Inspector of Police,
Marakanam Police Station ,
Villupuram District.
4. The Public Prosecutor,
High Court, Chennai.
5. The Superintendent,
Central Prison,
Cuddalore.



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P.VELMURUGAN, J.

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