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Crl.R.C.No. 595 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2025

CORAM:

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

Crl.R.C.No. 595 of 2025

Suriyavarman

... Petitioner

Vs

State represented by
The Inspector of Police,
Taluk Police Station, Ambur,
Tirupathur District.
(Cr.No. 229/2018)

... Respondent

Prayer: Criminal Revision Case filed under Section 438 and 442 of BNSS, 2023, to set aside the judgement dated 26.02.2025 passed in Crl.A.No. 124 of 2023 by the learned District and Sessions Judge, Tirupathur, modifying the judgement dated 31.07.2023 passed in C.C.No.17 of 2022 by the learned Additional District Munsif Cum Judicial Magistrate, Ambur by allowing the Criminal Revision petition.

For Petitioner : Mr.Shashvath Vel Ayyadurai
for Mr.Akshay Ram

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

ORDER

This revision is filed against the judgment dated 26.02.2025 made in Crl.A.No.124 of 2023 by the learned District and Sessions Court, Tirupattur. By the said judgment, the Appellate Court partly allowed the appeal, while confirming the conviction of the accused made by the Trial Court, namely, the



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Additional District Munsif-cum-Judicial Magistrate, Ambur, in C.C. No.17 of 2022, by judgment dated 31.07.2023 for the offences under Sections 304A and 279 of Indian Penal Code, 1860 and modified the sentence as simple imprisonment for a period of six months and a fine of Rs.25,000/- for the offence under Section 304(A), while confirming the sentence of three months' simple imprisonment and fine of Rs.1,000/- for the offence under Section 279 IPC.

2. The case of the prosecution is that on 20.06.2018 at about 4.30 p.m., when the petitioner/accused was driving the school van bearing Registration No.TN-21-H-2632, he stopped at a particular point to drop the deceased child, RaghaNisha, who got down from the school van. Unfortunately, before the van could start, the child came in front of the van and without even noticing the same, the petitioner/accused moved the vehicle and the front wheel on the driver's side ran over the child, resulting in her death. Hence, the accused was charged for the offences under Sections 279 and 304(A) of Indian Penal Code, 1860. When the case was taken on file as C.C.No.17 of 2022, the accused denied the imputations and stood trial. The prosecution examined P.W.1 to P.W.8 and marked Exs.P1 to P7. Upon being questioned under Section 313 of the Code of Criminal Procedure to bring home the charges, the accused denied



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the incriminating evidence on record as false. Thereafter, no evidence was let in on behalf of the defence. The Trial Court thereafter considered the case of the parties. The Trial Court considered the defence of the accused that the negligence was on the part of the father of the child, who, without accompanying the child or making the child stand safely, again got into the vehicle to alight another child who was their neighbour and in the process, the deceased child came in front of the van and was not visible from the driver's angle, resulting in the accident. The Trial Court found that it was the petitioner who did not exercise reasonable care and found the accused guilty and sentenced the petitioner. As against the same, the petitioner filed an appeal.

3. The Appellate Court, apart from finding negligence on the part of the petitioner, also found that the school management was at error in not employing an assistant in the van, as mandated under the standard operating procedure laid down by the State of Tamil Nadu in respect of school vans. However, the Appellate Court reduced the sentence as aforesaid, against which the present revision is filed.



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4. *Mr. Shashvath Vel Ayyadurai*, the learned counsel appearing on behalf of the petitioner, would firstly submit that when the Appellate Court had found that both the father of the child and the school management contributed to the unfortunate accident, it erred in still fixing criminal liability and sentencing the accused. He would submit that when the vehicle had already stopped and the allegation is only that the accused started moving the vehicle, there is no question of any rash or negligent driving. He also relied upon the judgment of this Court in ***Crl.R.C.No.888 of 2017, P. Selvaraj vs. State represented by Station House Officer***, to contend that under similar circumstances, the Court held that there cannot be any rash or negligent driving on the part of the petitioner. The learned counsel pointed out contradictions in the evidence and submitted that this is a fit case where this Court should interfere in exercise of the revisionary jurisdiction.

5. *Mr. S. Vinoth Kumar*, the learned Government Advocate (Criminal Side), submitted that the prosecution has duly discharged its onus by examining the father of the child and marking the rough sketch. It can be seen that the petitioner, as the driver of the school van, was required to exercise reasonable care to ensure that children alighting from the van do not come



under its wheels. In that context, the petitioner did not exercise reasonable care and caution while driving the school van and therefore, rashness and negligence have been proved as against the petitioner. The Appellate Court also took into consideration the attending circumstances including the absence of a helper and accordingly reduced the sentence.

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. The concept of rash and negligent driving cannot be given a straight-jacket meaning by terming it merely as driving at high speed or recklessly. The meaning of culpable rashness and culpable negligence differs as per context. As per the judgment of the Hon'ble Supreme Court of India in *Alister Anthony Pereira Vs. State of Maharashtra*¹ more specifically in paragraph No. 37 to 39, which 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

¹ (2012) 2 SCC 648



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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)

8. It is the element of not taking reasonable care expected of a driver, which would amount to culpable rashness or culpable negligence. In this case, the petitioner, being the driver of the school van, was expected to ensure that the children dropped by him did not come under the wheels either at the front or rear side. In that view of the matter, I am unable to accept the contentions advanced by the learned counsel for the petitioner and I hold that the Trial Court as well as the Lower Appellate Court were right in confirming the conviction of the petitioner under Sections 279 and 304(A) of Indian Penal Code. 1860.

9. The judgment relied upon by the learned counsel in *P.Selvaraj* cited (supra) is a case where the child had come to the rear side of the vehicle and on those facts, it was held that the driver of the vehicle could not have noticed the child. The facts are different in the instant case, where the child was run over by the front wheel, that too on the driver's side wheel. Therefore, the said judgment cannot be applied to the present case. However, I am inclined to consider the following aspects concerning the question of sentence:-



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(i) The accident occurred in the year 2018.

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(iii) The father of the deceased child, admittedly, after alighting the child, again got into the vehicle to help another child and therefore could not take care of the deceased child.

(iv) The parents of the deceased child had filed a claim petition before the Motor Vehicles Tribunal and received the award.

(v) Over and above the same, it is also represented on behalf of the prosecution that the school management has paid compensation to the victim child's family.

(vi) There is no previous or subsequent case against the accused.

10. Considering all the above and as the accident was not due to any aggravated or egregious conduct but was a human error and lapse of concentration, the prosecution was directed to obtain a Probation Officer's Report. Today, the Probation Officer's Report dated 13.11.2025 is also placed on record. As per the report, the petitioner has a permanent abode and is residing there, eking out his livelihood in a lawful manner. There are no bad antecedents as against the petitioner except the present case. His conduct in



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the immediate society and general society is good and the report is favourable that an opportunity may be given to the petitioner to show good conduct.

11. In view of all the above, the Criminal Revision is *partly allowed*.

The conviction of the petitioner for the offences under Sections 304(A) and 279 of Indian Penal Code, 1860, as recorded by the Trial Court in C.C.No.17 of 2022, dated 31.07.2023 and confirmed by the Appellate Court in Crl.A.No.124 of 2023 dated 26.02.2025, shall stand confirmed. Instead of proceeding to sentence the accused, after admonition, the accused is released on probation on the condition that he shall execute a bond before the Trial Court, undertaking good conduct for a period of one year, failing which he shall appear before this Court to take the sentence.

14.11.2025

Neutral Citation: No
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To

1. The District and Sessions Judge,
Tirupathur.

2.The Additional District Munsif Cum Judicial Magistrate,
Ambur.



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D.BHARATHA CHAKRAVARTHY, J.

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