



Crl.RC.No.1293 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2025

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.RC.No.1293 of 2024

Durairaj

...Petitioner

Vs.

State Rep. by
The Inspector of Police,
Tirchengode Rural Police Station,
Namakkal District.
(Cr.No.328 of 2013)

...Respondent

This Criminal Revision is filed under Section 397 and 401 of Cr.P.C to call for the records in Crl.A.No.79 of 2022 on the file of the II Additional District and Sessions Judge, Tiruchengode dated 21.06.2024 by allowing the order of conviction imposed in Judgment dated 08.09.2022 made in C.C.No.3 of 2014 on the file of the Hon'ble Judicial Magistrate, Tiruchengode, Namakkal District and to set aside the same.

For Petitioner : M/s.M.Mohamed Riyaz

For Respondent : Mr.J.Subbiah, GA (Crl. Side)

ORDER

The Criminal Revision is filed challenging the judgement of the II Additional District and Sessions Judge, Tiruchengode dated 21.06.2024 made in Criminal Appeal No.79 of 2022. By the said judgement, the



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conviction and sentence imposed by the trial Court - the Judicial Magistrate Tiruchengode in CC.No.3 of 2014 by Judgment dated 08.09.2022 was confirmed and found the petitioner guilty of an offence under Section 304(A) (two counts) of Indian Penal Code, 1860 and sentenced him to undergo simple imprisonment for a period of one year (each count) and to pay a sum of Rs.5000/- (each count), in default to undergo simple imprisonment for a period of one month and for the offence under Section 279 of Indian Penal Code, 1860, to pay a fine of Rs.1000/-, in default to undergo simple imprisonment for a period of one month.

2. The factual matrix including the contention of the learned counsel for the petitioner are all encapsulated in detail by this Court speaking through Hon'ble Mr.Justice M.Nirmal Kumar by the order dated 29.08.2024 passed in the petition to suspend the sentence and it is essential to extract paragraph Nos.2 to 6 for ready reference.

“2.Case of the prosecution is that on 24.07.2013 at about 01.45 p.m, the deceased Ayyavoo and his wife Boomathi while returning after attending condolence in their TVS XL Super bearing Reg.No.TN-34-J-7768, the petitioner said to have driven lorry bearing Reg.No.TN-28-



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D-2295 in rash and negligent manner, hit the TVS XL and caused the accident. Due to which, the said Ayyavoo and his wife Boomathi died. After causing the accident, the petitioner continued to drive the lorry in a rash and negligent manner and sped away. PW14 chased and stopped the lorry and identified the petitioner is the Driver. On the complaint (Ex.P1), PW17/Sub Inspector of Police registered FIR (Ex.P7) in Crime No.328 of 2013, visited scene of occurrence, prepared Observation Mahazar (Ex.P3), Rough Sketch (Ex.P8), examined the witnesses, recorded their statement, sent both vehicles for Motor Vehicle Inspection and sent the body for post mortem. On conclusion of investigation, charge sheet filed before the trial Court. During trial, on the side of the prosecution, 19 witnesses examined as PW1 to PW19 and 10 documents marked as Exs.P1 to P10. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the Trial Court convicted the petitioner as stated above.

3.The learned counsel for the petitioner submitted that though PW1, PW3, PW6, PW10, PW11, PW12, PW13 and PW14 projected as eye witnesses, the Trial Court disbelieved the said witnesses except PW11 and PW14. The evidence of PW11 is that when he was proceeding on the road, the accident took place. But PW11 not stated about the vehicle number and not identified the petitioner except by naming him. Further PW11 does not state about



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the presence of PW14 in the scene of occurrence. The evidence of PW14 is that at the time of accident, Ayyavoo had valid license, vehicle registration certificate and other documents and the petitioner was apprehended on the same day of accident. But the evidence of the Investigating Officer/PW18 is that the deceased Ayyavoo had no valid license for his two wheeler TVS XL and the petitioner was arrested on the next day of the accident i.e., on 25.07.2013. Hence, the presence of PW11 and PW14 are highly doubtful which was not considered by both the Courts below. Hence, prays for suspension of sentence.

4.The learned Additional Public Prosecutor appearing for the respondent Police filed counter and submitted that in this case, on complaint (Ex.P1) of PW1, FIR (Ex.P7) registered by PW17/Sub Inspector of Police and forwarded to PW18. PW18 conducted major portion of the investigation, visited the scene of occurrence, prepared Observation Mahazar (Ex.P3), Rough Sketch (Ex.P8), examined the witnesses present in the scene of occurrence and recorded their statements. Since there was condolence nearby the scene of occurrence, almost eight persons cited as eye witnesses who are all identified the lorry number and its driver i.e., the petitioner. The vehicles both lorry and TVS XL bike produced for Motor Vehicle Inspection and body was sent for postmortem. On collection of Motor Vehicle Inspector Report (Ex.P6), postmortem certificates (Exs.P4 & P5) and other



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documents, charge sheet filed before the Trial Court. The Trial Court on the evidence and materials had come to the conclusion that the petitioner is the reason for the accident and passed judgment of conviction which was affirmed by the lower appellate Court.

5.At this stage, the learned counsel for the petitioner submitted that now the petitioner surrendered before the Judicial Magistrate, Tiruchengode/Trial Court and he produced the copy of surrender order, dated 28.08.2024 and acceptance of the learned Magistrate.

6.Considering the submissions and on perusal of the materials, it is seen that though several persons cited as eye witnesses, the Trial Court disbelieved their evidence except for PW11 and PW14. The presence of PW11 and PW14 is also doubtful since PW11 and PW14 not mentioned their presence in their evidence of each other. It is also to be seen that the manner in which the petitioner was identified is also doubtful. PW18 confirms petitioner arrested on the next day and the rider of TVS XL had no valid license, is quite contra to the evidence of PW14. Hence, the judgment of the Courts below needs reconsideration.”

3. Mr.Mohamed Riyaz, the learned counsel appearing on behalf of the petitioner reiterating the said submissions would take this Court through the evidence of P.W.14 and also the Investigating Officer and



points out the material contradictions in that regard. He would submit that the deceased did not have any valid licence and vehicle also did not have any RC book, the same has been ignored by the trial Court as well as the Appellate Court. The other eyewitnesses have been discarded by the trial Court itself. Even from the version of PW.14, it cannot be concluded that the petitioner drove the vehicle in a rash and negligent manner. Even the evidence of the prosecution witness P.W.14 is that though they immediately chased the lorry and found that the accused was driving the vehicle and caught him, however, the investigating officer would categorically depose that the petitioner was arrested in a bus stop on the next day. Therefore, the entire version of the prosecution is unbelievable and as such this case is to be interfered by this court.

4. Per contra the learned Government Advocate (Crl. Side) by taking this Court through the relevant paragraphs of the judgement of the trial Court would submit that even though the other eyewitnesses were disbelieved, the trial Court has categorically relied upon one of the eyewitnesses P.W.14 and the very fact that the two persons travelled in the two wheeler were hit from behind and they died on the spot would adumbrate the speed in which the vehicle was driven and therefore the



findings doesn't call for any interference.

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

6. It is true that there is a contradiction with reference to the apprehension of the petitioner. In that regard, the version of the Investigating Officer is that the accused was arrested on the next day i.e., 25.07.2013 and immediately he was also produced before the trial Court. Therefore, if at all anything has to be doubted, it is that piece of evidence, P.W.14 which has to be doubted. However, the manner in which the accident had taken place and the death of the two persons in the two wheeler, in this case the principles of *res ipsa loquitur* can be invoked. Further, merely because the deceased had no valid license or their vehicle did not possess proper insurance or RC book, the same is not a ground to pronounce upon the culpable rashness or negligence on the part of the petitioner. In view thereof, though certain grounds are raised, I do not find any clinching material to interfere with the Revisionary Jurisdiction especially, when the trial Court and the First Appellate Court has appraised the evidence and found the accused guilty. However, it can be



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seen that the petitioner was in custody for a period of seven days and he has also already paid the fine amount. Considering the nature of accident and the manner of evidence in this regard, I am of the view that the sentence of imprisonment alone can be modified as one of period already undergone.

7. In the result this Criminal Revision petition is partly allowed. The conviction of the petitioner for the offences under Section 279 and 304(A) of IPC by the trial Court by judgement dated 08.09.2022 and the Appellate Court by judgement dated 21.06.2024 shall stand confirmed. However, the fine amount as ordered by the trial Court stands confirmed and the fact that it is already paid is recorded. The period of imprisonment alone is modified as one already undergone.

22.08.2025

rap
NCC : Yes / No

To

1. The II Additional District and Sessions Judge, Tiruchengode
2. The Judicial Magistrate, Tiruchengode, Namakkal District
3. The Inspector of Police,
Tiruchengode Rural Police Station,
Namakkal District.



4. The Public Prosecutor,
High Court of Madras.

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D.BHARATHA CHAKRAVARTHY.J.,

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