



Crl.R.C.No.1735 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 19.08.2025

CORAM:

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

Crl.R.C.No.1735 of 2023

Sundaramurthy

... Petitioner

Vs.

The State Rep.
The Inspector of Police,
Kandhikuppam Police Station,
Krishnagiri District.
(Crime No.113/2016)

... Respondent

PRAYER: Criminal Revision Case has been filed under Section 397 and 401 of Code of Criminal Procedure, to call for the records on the file of the learned Principal Sessions Judge, Krishnagiri District in Crl.A.No.19 of 2020 by judgement dated 02.08.2023 and confirming the judgment and sentence passed by the learned Chief Judicial Magistrate, Krishnagiri District in C.C.No.340 of 2019 dated 10.01.2020 and set aside the judgement dated 02.08.2023.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.J.Subbiah
Government Advocate (Crl.Side)

ORDER

The criminal revision case challenges the judgment of the Principal



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Sessions Judge, Krishnagiri, dated 02.08.2023, made in Criminal Appeal No.

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19 of 2020. By the said judgment, the conviction and sentence imposed by the trial Court were confirmed by the appellate Court. The trial judge, the Chief Judicial Magistrate, Krishnagiri, by judgment dated 10.01.2020, made in C.C. No. 340 of 2019, found the appellant guilty of the offences under Sections 279 and 304A of the Indian Penal Code and sentenced him to undergo two years rigorous imprisonment and to pay a fine of Rs.10,000/-, and in default of payment of fine, to undergo simple imprisonment for a period of one month.

2. The case of the prosecution is that there is a T-junction in Krishnagiri to Kuppam road, and after a right turn from Krishnagiri, the road leads to Bargur. In the T-junction, on 03.04.2016 at about 12.10 p.m., the accused was driving the town bus, route number 67, bearing registration number TN-29-N-1726, in a rash and negligent manner from Krishnagiri, turned to the right into the said Bargur road and dashed against the deceased, who went under the left-hand side front wheel, was crushed and died on the spot.

3. Accordingly, a case was registered in Crime No. 113 of 2016. P.W.10 completed the investigation and laid a final report proposing the accused guilty



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of the offences. Upon issuance of summons, furnishing of copies and questioning, the accused denied the charges and stood trial. In order to bring home the charges, P.W.1 to P.W.10 were examined, and Exs.P1 to P9 were marked. Upon being questioned about the material evidence on record, the accused denied the same as false. Thereafter, no evidence was let in on behalf of the defence. The trial court, after appreciation of evidence, found the accused guilty of the offences and sentenced him as aforesaid. Aggrieved thereby, the appeal was filed and the appellate Court also confirmed the judgment of the trial Court.

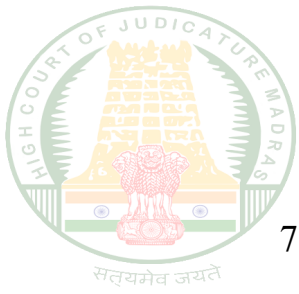
4. The learned counsel appearing on behalf of the petitioner made three submissions. Firstly, he submitted that there is no evidence on record to identify that it was the accused who drove the vehicle or to connect the accused with the offences. Secondly, he submitted that it is the duty of the prosecution to prove that the death was only on account of the accident by examining the postmortem doctor. In this case, the postmortem doctor was not examined and the postmortem report alone was marked as Ex.P8 through the Investigating Officer. Though the document was taken on record, the contents were not proved in the manner known to law. Thirdly, he contended that it is the bounden duty of the prosecution to prove that the accident happened only



due to negligence and not on account of any mechanical fault. Even though the Motor Vehicle Inspector's report was marked as Ex.P9 through the Investigating Officer, the said officer was not examined, and hence the contents were not proved.

5. In support of his submissions, the learned counsel for the petitioner relied upon the judgment of this Court in *Arumugam vs. State by Sub Inspector of Police*, reported in *[2001 (2) Law Weekly (Criminals) page 773]*, more specifically paragraph No.3. The said ruling was also followed in another judgment in *Mani vs. State, represented by the Inspector of Police (Crl.R.C. No.1131 of 2017)*.

6. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent would submit that in this case, P.W.1 to P.W.3 were eyewitnesses. They have clearly spoken about the rash and negligent driving. The trip sheet was also marked as Ex.P7. The postmortem report and the Motor Vehicles report were also marked through the Investigating Officer. Therefore, the prosecution has proved the offences beyond any reasonable doubt and there is no ground to interfere in this revision.



7. I have considered the rival submissions made on either side and

perused the material records of the case.

8. Firstly, as rightly contended by the learned counsel for the petitioner, it is the bounden duty of the prosecution to prove the cause of death as well as that the accident happened due to rash and negligent driving. It can be seen from the oral evidence of P.W.1 to P.W.4 that they alleged that the left-hand side of the front portion of the bus hit against the deceased, who was standing at the bus stop. After being hit, he fell down, went under the front left wheel, and his head was crushed. Secondly, the accident also happened immediately after the right turn in the T-junction. Therefore, this is a case where this Court can invoke the *maxim res ipsa loquitur*, and even dehors the lack of evidentiary value of the postmortem report as well as the Motor Vehicles report, it can be concluded that the deceased died only on account of the injuries, i.e., the crushing of the head under the wheels, and that the accident happened due to the rash and negligent driving of the accused.

9. It is also true that it is the prosecution's duty to prove that the accused drove the bus. Firstly, it is a government bus and the trip sheet was marked. It



is not the case of the accused that he was never on duty. On the other hand, the cross-examination by the accused clearly shows that suggestions were made to the eyewitnesses that it was the mistake of the deceased, who suddenly came into the middle of the road to catch the bus, which resulted in the accident. Therefore, that argument on behalf of the learned counsel for the petitioner also cannot be countenanced.

10. Even though, the name of the petitioner doesn't found place in Ex.P7 in other documents such as Ex.P8 the motor vehicles inspector report etc, the name of the petitioner is categorically shown as driver, though the report is not proved in the manner known to law by examining the motor vehicle inspector but when the prosecution is producing ever so many documents showing the petitioner as the driver, no suggestion whatsoever was made even a single witness that the petitioner never drove the vehicle.

11. However, with reference to sentencing, the rough sketch is taken into account by this Court. Even though it is a T-junction and the petitioner should have driven the vehicle slowly and cautiously, since it is common at such junctions, where the bus stop is also situated, that people run hither and thither, the accused, being a driver of a Government bus, ought to have driven

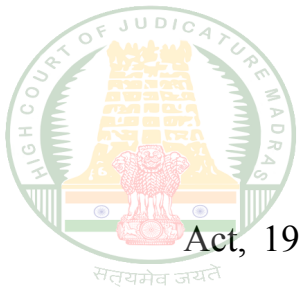


the bus a cautious manner. But, the place of accident is also marked in the rough sketch, which is not at the edge of the road as stated by the prosecution.

Some contribution from the deceased also cannot be ruled out. The same can be duly taken into account while considering the nature of the offence and whether it is a fit case for releasing the accused under the Probation of Offenders Act, 1958. In the peculiar facts and circumstances of the case, considering the nature of the accident, I am of the view that instead of sentencing the accused, he can be released under the Probation of Offenders Act, 1958.

12. Upon query, it is represented that a claim petition has already been made and the victim's family has been compensated by the Corporation. Apart from this, upon the query of this Court, the learned counsel for the accused also undertook to pay another sum of Rs.10,000/- as compensation to the victim's family. The same is also recorded. It is seen that the accused is a first-time offender and is not involved in any other case, either prior to the accident or subsequently. Therefore, instead of proceeding to sentence the accused, he can be released on probation.

13. Needless to mention, as per Section 12 of the Probation of Offenders



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Act, 1958, since this petitioner is released on probation, no disqualification attaching to conviction will be there for this petitioner, including for employment purposes.

14. In view thereof, this criminal revision is ***partly allowed*** and the conviction of the petitioner for the offences under Sections 279 and 304(A) of Indian Penal Code by the judgment of the trial Court dated 10.01.2020 in C.C.No. 340 of 2019 and the appellate Court dated 02.08.2023 in Crl.A.No. 19 of 2020 shall stand confirmed. However, without proceeding to sentence the accused, this Court releases the petitioner on probation under Section 4 of the Probation of Offenders Act, 1958, on the following conditions:

(i) The petitioner shall pay a sum of Rs.10,000/- in the name of P.W.1 *Sanjeevan* directly through a demand draft and produce proof of the copy of the demand draft as well as the receipt of the demand draft through registered post with acknowledgment due.

(ii) The petitioner shall also execute a bond undertaking good conduct for another period of two years, failing which to appear before this Court to



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take sentence.

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19.08.2025

Neutral Citation: Yes/No
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To

1. The Inspector of Police,
Kandhikuppam Police Station,
Krishnagiri District.
2. The Principal Sessions Judge, Krishnagiri.
3. The Chief Judicial Magistrate Krishnagiri.
4. The Public Prosecutor,
High Court of Madras.

D.BHARATHA CHAKRAVARTHY, J.



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