



Crl.R.C.No.1931 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.1931 of 2023

Mohan

... Petitioner

Vs.

The State Rep. by
The Sub Inspector of Police,
Traffic Investigation Wing,
Elephant Gate (C2) Police Station,
Chennai - 600 079.
(Crime No.130/C1/2016)

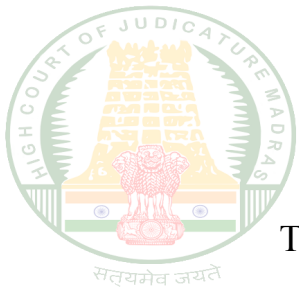
... Respondent

PRAYER: Criminal Revision Case has been filed under Section 397 r/w 401 of Code of Criminal Procedure, to set aside the judgment in Crl.A.No.02 of 2021 dated 28.06.2022 on the file of the learned Principal Sessions Judge, Chennai, confirming the judgment and sentence made in C.C.No. 540 of 2017 dated 09.10.2020 on the file of the III Metropolitan Magistrate Court, George Town, Chennai.

For Petitioner : Mr.Saravanakumar
for Mr.V.S.Jagadeesan

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

ORDER



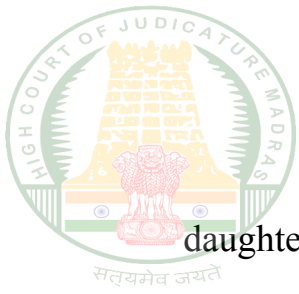
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This revision is filed challenging the judgment of the Principal Sessions

WEB.COM Judge, Chennai, made in Criminal Appeal No. 2 of 2021 dated 28.06.2022. By

the said judgment, the learned Appellate Judge confirmed the conviction and sentence imposed by the trial Court. The trial Court – III Metropolitan Magistrate, George Town, Chennai, by judgment dated 09.10.2020 made in C.C. No. 540 of 2017, found the petitioner guilty of an offence under Section 304A of the Indian Penal Code and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.3,000, and in default, to undergo simple imprisonment for a further period of two months; for the offence under Section 338 (2 counts), the trial Court imposed a fine of Rs.1,000/- for each count and in default, to undergo simple imprisonment for one month; for the offence under Section 337, the petitioner was sentenced to pay a fine of Rs.500/-, and in default, to undergo simple imprisonment for a period of one month.

2. The case of the prosecution is that on 13.09.2016, at about 10:45 p.m., on the Basin Bridge Road opposite to Nagavalli Angala Parameswari Temple, the accused drove the Tamil Nadu State Transport Corporation bus bearing registration TN-01/N-5981 on the wrong side of the road, in a rash and negligent manner and hit the motorcycle driven by the injured witness P.W.2 *Gunasekaran*. Due to the accident, *Gunasekaran*, his wife *Muthulakshmi*, his



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daughter *Padmasri*, and his son *Nagulesh* aged about 7 years, sustained injuries. *Nakulesh* suffered a severe head injury and was admitted to hospital, where he battled for life for seven days and ultimately succumbed to the injury.

3. A case was registered in Crime No. 130 of 2016, and P.W.16 took up the investigation and laid a final report proposing the accused guilty of the aforesaid offences. Upon the case being taken on file and being questioned, the accused denied the allegations and stood trial. In order to establish the charges, the prosecution examined P.W.1 to P.W.19 and marked Exs.P1 to P29. Upon being questioned about the material evidence on record, the accused denied the same as false. Thereafter, one *Gunasekaran* was examined as D.W.1 and Ex.D1 was marked. The trial Court, after considering the arguments of the learned Assistant Public Prosecutor and the learned counsel for the accused, found that the prosecution had proved the offences beyond reasonable doubt and sentenced the accused as aforesaid. On appeal, the appellate Court confirmed the judgment, against which this revision is filed.

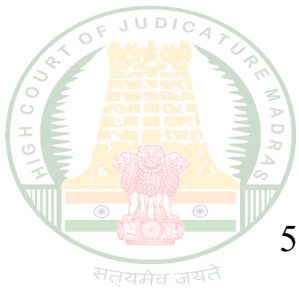
4. The learned counsel appearing on behalf of the petitioner would take



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this Court through the evidence of the eyewitness, P.W.12 *Harikrishnan*, which itself would prove that the road was a two-lane road. In the lane in which the bus was to proceed, certain road works were being undertaken, and the bar that was placed across the road in order to prevent container vehicles beyond a particular height from proceeding was being removed and replaced. In view of the said road works, the bus was diverted to the wrong side of the road. Therefore, it was the duty of the concerned traffic police to have informed the persons on the other side of the road and to regulate the traffic. When the bus was driven at normal speed, without noticing the bus, because it was on the wrong side, the two-wheeler driven by P.W.2 came in front of the bus and dashed against it and the vehicle was found lying in front of the bus. The evidence of all the prosecution witnesses categorically shows that the two-wheeler was lying in front of the bus. In the entire episode, the other occupants suffered minor injuries, but the child's head, in view of the manner in which the family of four was travelling on one two-wheeler, hit against the bumper of the bus and only on account of the head injury, after prolonged treatment, the child died. Therefore, in this case, the prosecution did not prove the offences beyond reasonable doubt, and the trial court ought to have acquitted the petitioner.



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5. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent would submit that the independent eyewitness was examined as P.W.12, besides the injured witnesses P.W.2 and P.W.3, who categorically spoke about the rash and negligent manner in which the bus was driven and the accident had happened. The postmortem report and the Motor Vehicles Inspector's report were also duly marked. The prosecution, by examining the eyewitnesses and also marking the rough sketch, duly and categorically proved the offences beyond reasonable doubt.

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

7. It is true that the defence has proved that the bus was diverted to the wrong side of the road. The prosecution also does not deny the same. However, especially when the bus was diverted to the wrong side of the road, it is a matter of prudence that the driver, while driving the vehicle on the wrong side, should have been doubly careful, as vehicles from the opposite direction were expected. Therefore, it cannot be said that there was absolutely no culpable negligence or rashness on the part of the driver. The very fact that the accident happened on the wrong side of the road is a case for this Court to



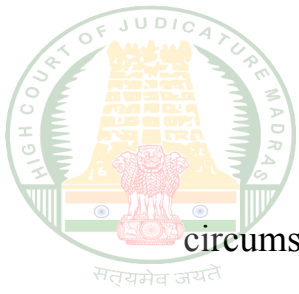
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press into service the *maxim res ipsa loquitur*.

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8. Therefore, I am unable to accept the contention of the learned counsel for the petitioner to interfere with the finding of guilt. However, the manner in which the accident has taken place can be taken into account for the purpose of considering the case of the petitioner to be released under the Probation of Offenders Act, 1958. Firstly, it can be seen that, the bus having been diverted on the wrong route, it was for the persons who diverted it, namely the concerned traffic police, to have taken necessary precautions to prevent such accidents. Secondly, the manner of impact is also taken into account. The child's head hit against the bumper while the two-wheeler fell in front of the bus, which had also been stopped instantly. Thirdly, the petitioner is a first-time offender. He has no previous or subsequent cases. The victim's family has also filed an application for compensation and the fact that the State Corporation has paid compensation is also confirmed. Additionally, when this Court enquired, the learned counsel for the petitioner fairly undertook to pay another sum of Rs.10,000 as compensation to P.W.2, which is also recorded.

9. For all the above reasons, I am of the view that even though this is a case under Section 304(A) of Indian Penal Code, the peculiar facts and



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circumstances make it a fit case for releasing the petitioner under the Probation of Offenders Act, 1958. It is made clear that by virtue of Section 12 of the Act, since the petitioner is dealt with under the provisions of the Act, the finding of conviction will not be a disqualification, including for employment purposes.

10. In view thereof, this criminal revision is ***partly allowed*** and the finding of guilt for the offences under Sections 304(A), 338 (2 Counts), and 337 of Indian Penal Code by the trial Court in C.C.No. 540 of 2017 dated 09.10.2020 and the lower appellate Court in C.A.No. 02 of 2021 dated 28.06.2022 shall stand confirmed. However, without proceeding to sentence the accused, this Court releases the petitioner on probation under the Probation of Offenders Act, 1958, on the following conditions:

(i) The accused shall take a demand draft for Rs.10,000/- in the name of *Gunasekaran* and hand it over to the respondent police, and the respondent police shall trace P.W.2- *Gunasekaran* and hand over the demand draft directly to him;

(ii) The accused shall executed a bond undertaking good conduct along with a copy of the demand draft within four weeks from the date of receipt of a



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copy of this order, failing which to appear before this Court to take sentence.

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Neutral Citation: Yes/No
nsl

To

1. The Sub Inspector of Police,
Traffic Investigation Wing,
Elephant Gate (C2) Police Station,
Chennai - 600 079.
2. The III Metropolitan Magistrate Court,
George Town, Chennai.
3. The Principal Sessions Judge, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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D.BHARATHA CHAKRAVARTHY, J.

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