



Crl.RC.No.1802 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2025

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

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Dakshinamoorthy

...Petitioner

Vs.

State: Represented by;  
The Inspector of Police,  
Muthupettai Police Station,  
Thiruvarur District.

Crime No.153 of 2014

...Respondent

This Criminal Revision is filed under Section 397 r/w 401 of Code of Criminal Procedure, 1973 to set aside the order passed by the learned Principal District and Sessions Judge, Thiruvarur in C.A.No.20 of 2021 by its order dated 20.09.2023 confirming the judgment in C.C.No.33 of 2014 on the file of the Judicial Magistrate Fast Track Court, Thiruthuraipoondi vide judgment dated 17.11.2021 sentenced to undergo 2 years S.I and to pay Rs.2,000/- i/d 1 month S.I for the offence u/s 304A of Indian Penal Code.

For Petitioner : M/s.Swamisubramanian

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

**ORDER**

The facts of this case has been encapsultated in detail by this Court speaking through Hon'ble Mr.Justice M.Nirmal Kumar at the time of grant of Suspension of Sentence and Paragraph Nos.2 to 5.1 which also



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captures the argument that were made on behalf of the petitioner are

WEB COPY extracted hereunder for ready reference:

"2. The petitioner/accused in C.C.No.33 of 2014 was convicted by the trial Court for offence under Section 304-A and sentenced to undergo two years simple imprisonment and to pay a fine of Rs.2,000/-. Aggrieved against the same, the petitioner preferred an appeal before the learned Principal District and Sessions Judge, Thiruvarur in C.A.No.20 of 2021. The learned Sessions Judge, by judgment dated 20.09.2023 dismissed the appeal confirming the conviction and sentence passed by the trial Court. Against which, the petitioner/accused has filed Crl.R.C.No.1802 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.

3. The case of the prosecution is that on 01.04.2014 at about 5.15 hours, one Kasinathan, father of the de-facto complainant/PW1 was travelled in his two wheeler, Hero Honda Splendor bearing registration No.TN-50-V-9826 from east to west. When he was proceeding near Uppoor New road, a bus, which was coming in the same direction behind him in a rash and negligent manner, dashed against the bike driven by Kasinathan. He fell down to his left and sustained injuries and thereafter died. This was witnessed by PW1, who is a Van driver in a School, who had driven the van behind the bus of the accused. In this



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case, PW7 on the complaint of PW1 registered an FIR. PW9/Investigating Officer took up investigation, recorded statement of witnesses PW1, PW2, PW3 and PW6/eyewitnesses, PW4 and PW5/Mahazar witnesses, PW8/Motor Vehicle Inspector and thereafter on collection of materials and documents filed charge sheet before the trial Court.

4. Before the trial Court, on the side of prosecution PW1 to PW9 examined, marked Exs.1 to 9 and no material objects marked. On the side of defense, no witnesses examined and no documents marked. The trial Court on the conclusion of trial convicted the petitioner as stated above. The Lower Appellate Court dismissed the appeal confirming the judgment and sentence passed by the trial Court, against which, the present revision.

5. The contention of the petitioner is that PW1 is the son of the deceased and he is not an eyewitness to the occurrence. Though he has been projected as eyewitness, his evidence is that he parked the school van to drop the children near Uppoor New Road and his father was proceeding before him. At that time, the bus driven by the petitioner overtook his van and caused the accident. If that is so, the bus driven by the petitioner would have completely obstructed the site of PW1 and PW1 could not have seen the accident at all. PW1 further in his evidence stated that the petitioner driven the bus in a rash and



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negligent manner but PW7/Sub Inspector of Police during cross examination deposed that there is no mention about rash and negligent driving of the bus. Further submits that in this case PW2 is the close relative of PW1. From the report of Motor Vehicle Inspector/PW8 it is seen that two wheeler had sustained damages to its right side. If the accident took place as spoken by the witnesses, the damages could have been only on the rear side and not on the right side. Further, PW2 admits that only after hearing the noise he turned and he has not seen the accident proper.

5.1. The specific case of the petitioner is that the deceased contributed negligence for the accident, he had taken a sudden right turn in Uppoor Road and that is the reason for the accident. Further, deceased was riding vehicle without license. PW1 though states that his father has got license, the same has not been produced in this case. Motor Vehicle Inspector report is contrary to the evidence of eyewitnesses affirming that the eyewitnesses were not present in the scene of occurrence. The trial Court as well as lower Appellate Court failed to consider the same. Further, the petitioner has arguable points and fair chance of success in this revision. Hence, he prays for granting suspension of sentence to the petitioner.”



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2. After considering the issue on merits and the manner of the accident, eventhough this is an offence under Section 304(A) of the Indian Penal Code, the fact that P.W.1 states that his bus was stopped in the road and the school children were alighting from the school bus. At that time, a private bus said to have overtaken and the deceased was present in front of the school bus by obtaining money from the driver of the school bus who happened to be his son is taken into account and on the facts and circumstance the case, I am of the view that this is the fit case where this Court can consider the question of sentence.

3. It is represented that the petitioner has been in prison for nineteen days from 13.10.2023 to 01.11.2023. The fine amount was also already paid. Considering the nature of the accident, eventhough the learned counsel for the petitioner started the arguments on merits, I am of the view that, the petitioner was in prison for nineteen days and have already paid the fine amount and has been facing this case from the year 2014 and the fact that he is now aged 45 years all can be taken into account and the sentence can be modified as period already undergone in respect of the sentence of imprisonment alone. In view thereof, this revision is disposed of in the following terms.



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(i) The conviction of the petitioner for the offence u/s.304(A) of

the Indian Penal Code by the judgement of trial Court dated 17.11.2021

in C.C.No.33 of 2014 and confirmed by the Appellate Court by judgement dated 20.09.2023 in C.A.No.20 of 2021 shall stand confirmed.

However, the sentence of imprisonment alone is modified as period already undergone and the fine amount already paid is also recorded.

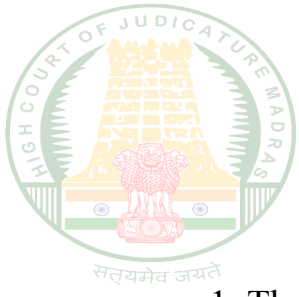
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RAP

NCC : Yes / No

To

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1. The Principal District and Sessions Judge, Thiruvarur
2. The Judicial Magistrate Fast Track Court, Thiruthuraipoondi
3. The Inspector of Police,  
Muthupettai Police Station,  
Thiruvarur District.
4. The Public Prosecutor,  
High Court of Madras.



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**D.BHARATHA CHAKRAVARTHY.J.,**

**RAP**

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