



Crl.RC.No.1882 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 20.08.2025

CORAM:

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

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Shanavas,
S/o.Nazeer

...Petitioner

Vs.

The State
Rep. by the Inspector of Police,
Veppankuppam P.S.
(Cr.No.452 of 2016)

...Respondent

Prayer: Criminal Revision Case filed under Section 438 of the BNSS Act, to set aside the judgment of the learned District & Sessions Judge, Vellore, dated 31.07.2024 in C.A.No.17 of 2024 and as confirming the order of the conviction of the learned Judicial Magistrate III, Vellore dated 20.02.2024 in C.C.No.298 of 2017.

For Petitioner : Mr.J.Chandran Sundar Sashikumaar
For Respondent : Mr.J.Subbiah
Government Advocate (Crl.side)

ORDER

This revision is filed challenging the judgement of the learned Principal District and Sessions Judge, Vellore dated 31.07.2024 made in C.A.No.17 of 2024. By the said judgment, the lower appellate Court confirmed the



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judgement of the trial court, finding the appellant guilty of the offences under Section 279 of Indian Penal Code, imposing a fine of Rs.1000/- and in default to undergo one month simple imprisonment and for the offence under Section 304(A) of the Indian Penal Code, sentenced to undergo 6 months simple imprisonment and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for one month.

2. The case of the prosecution is that, on 29.09.2016 at about 6:00 p.m., when PW 1 was walking on the left hand side of the road, along with 6 year old child / the deceased, the accused drove the Bolero Pickup Van bearing Registration No.TN-23-BZ-3421, in a rash and negligent manner and hit the child from behind and on account of which, the child sustained injuries and thereafter the child was admitted into the hospital and the next day, the child died. A case was registered in Cr.No. 452 of 2016 for the offences punishable under Section 279 and 304(A) of Indian Penal Code. PW 9 took up the case for investigation and laid a final report, proposing the accused guilty of the offenses. Upon the case being taken on file by the learned Judicial Magistrate - III, Vellore as CC No. 298 of 2017 and the accused was summoned and copies being furnished and questioned, the accused denied the allegations and stood trial. In order to bring home the charges, PW1 to PW9



were examined on behalf of the prosecution and Exs. P1 to P9 were marked.

WEB COPY Upon being questioned about the incriminating evidence on record under Section 313 of the Code of Criminal Procedure, the accused denied the same as false. Thereafter, no evidence was let in on behalf of the defence. The trial Court, thereafter, considered the case of the prosecution and that of the accused and found the accused guilty and imposed the sentence as aforementioned. The appellate Court, on re-appreciation of the evidence, confirmed the conviction and sentence imposed by the trial Court.

3. Learned counsel appearing on behalf of the petitioner would submit that, in this case, not even an identification parade was conducted for P.W1 to identify that it is the accused who is involved in the accident. Alternatively, the learned counsel would also submit that, in this case, the case of the prosecution is that, the vehicle hit the girl on the left hand side from behind. But however, the motor vehicle report clearly mentions that the vehicle suffered damage on the right hand side bumper, which will go to show that the child has suddenly come to the middle of the road and also argued on the question of sentence.

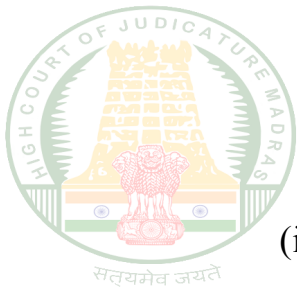


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4. Learned Government Advocate (Crl.side) would submit that the child was only a 6 year old child and the dent on the right side would need not have necessarily happened, on account of the present accident. When PW1 has categorically deposed that, they were walking along the left hand side of the road and the rough sketch also clearly shows the place of the accident, the prosecution has proved the charge beyond any reasonable doubt.

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

6. As rightly contended by the learned Government Advocate (Crl.side), though the motor vehicle inspector's report normally finds the damages of the pickup vehicle examined, the same is not conclusive of the fact that the damage arrives on account of the accident. In this case, a tender child of aged 6 years was hit from behind and therefore, there could not have been any dent or damage to the vehicle on the left hand side. Even PW1 has categorically spoken about the fact that, the accused has driven the vehicle. Therefore, the contention of the learned counsel for the petitioner cannot be accepted. However, with reference to the question of sentence, I considered the following fact:



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(i) the accused was aged about 25 years, as on date of the accident ;

WEB COPY (ii) he has been facing the proceedings from the year 2017 until now for the past 8 years;

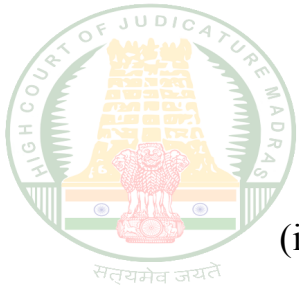
(iii) he has already paid the fine amount;

(iv) the claim petition has been filed on behalf of the child and it said to have been pending.

7. For all the above reasons, I am of the view that, the sentence commensurate with the nature of accident can be given, so that it is neither unduly harsh and at the same time, is commensurate to the offence that is committed by the accused, so as to make him understand the seriousness of the crime. I am of the view that an imprisonment for a period of 15 days can be imposed.

8. In view thereof, this criminal revision is partly allowed on the following terms:

(i) The conviction of the petitioner for the offences under Section 279 and 304(A) of the Indian Penal Code by the trial Court vide judgement dated 20.02.2024 in C.C.No.298 of 2017 and confirmed by the appellate Court in C.A.No.17 of 2024, vide judgment 31.07.2024 shall stands confirmed.



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(ii) The fine amount as ordered by the trial Court is also confirmed and the fact that it is already paid is recorded.

(iii) The period of imprisonment is modified and reduced as 15 days simple imprisonment.

(iv) Accordingly, the accused is directed to surrender before the trial Court to undergo the sentence within a period of three (3) weeks time from the date of receipt of the copy of the order.

(v) No costs.

20.08.2025

Neutral Citation: Yes/No
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To

1.The Inspector of Police,
Veppankuppam P.S.

2.The District and Sessions Court, Vellore

3.The Judicial Magistrate III, Vellore.

4. The Public Prosecutor,
Madras High Court.



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D.BHARATHA CHAKRAVARTHY, J.

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