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CRL RC No. 1943 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-10-2025

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL RC No. 1943 of 2024

Pazhani

S/o.Shankar, No.77, Kuthakudi,
Kottuchery, Karaikal.

Petitioner(s)

Vs

The State Rep. By
The Inspector Of Police,
Pagasalai Police Station,
(Crime No.10/2022)

Respondent(s)

PRAYER

This Criminal Revision Petition is filed under Section 438 r/w. 442 of BNSS, to allow the above Criminal Revision Petition and to set aside the Order Passed in CA.No.1 of 2024 dated 16.08.2024 on the file of the Hon'ble District and Sessions Judge, Mayiladuthurai and confirming the Judgment made in C.C.No.18 of 2022 dated 11.12.2023 on the file of the Judicial Magistrate-II at Mayiladuthurai.



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For Petitioner(s): Mr.K.Shankar

For Respondent(s): Mr.S.Vinoth Kumar,
Govt.Advocate (Crl.Side)

ORDER

This Revision is filed against the judgement of the learned Judicial Magistrate No.II, Mayiladuthurai dated 11.12.2023 made in CC.No.18 of 2022 and that of the learned District and Sessions Judge, Mayiladuthurai dated 16.08.2024 made in CA.No.1 of 2024. The trial court by the above judgment convicted the petitioner for the offences under section 279 and 304 (A) of the Indian Penal Code and for the offence under Section 279, imposed a fine of Rs.1000 and in default to undergo one month simple imprisonment and for the offence under Section 304 (A), one year rigorous imprisonment. The appellate court confirmed the conviction and sentence imposed by the trial court, as against which, the presentation Criminal Revision has been filed.



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2.The case of the prosecution is that on 28.01.2022, at about 10:00 a.m. the accused had driven the tipper lorry bearing registration no.TN 57 AS 9068 in a rash and negligent manner, near the road leading to Kathiruppu village, near the Punjab Union Middle school and dashed against the child, who was a pedestrian coming from the opposite direction and caused injuries and the child aged about 7 years succumbed to the injuries. On the said allegation, a case was registered in Crime No.10 of 2022 and PW4 took up the case for investigation and laid the chargesheet proposing the petitioner/accused guilty of an offence under Section 279 and 304 (A) of Indian penal Code.

3.Upon the summons being issued and copies furnished, the accused appeared before the trial court and denied the allegations in order to bring home the charge. The prosecution examined PW1 to PW9 and marked Exts.P1 to P9. Upon being questioned about the incriminating evidence on record under Section 313 of the code of Criminal procedure, the accused denied the same. Thereafter, no evidence was let in on behalf the defence. The trial court



appreciated the oral and documentary evidence on record and considered the evidence of PW2 and the eyewitness PW3 and held that the rashness and negligence on the part of the accused stood proved and imposed the sentence as above. The lower appellate court once again reappraised the entire evidence and rejected the defence projected on behalf of the accused and confirmed the conviction and sentence, as against which, the present Revision is filed.

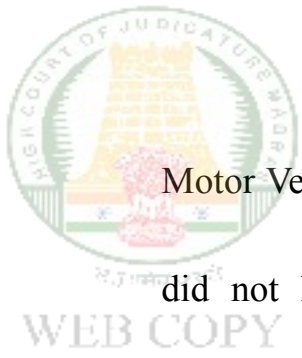
4. The learned counsel appearing on behalf of the petitioner would point out to the evidence on record and the rough sketch and would submit that the fault cannot be alleged as against the petitioner accused. As a matter of fact, the accused stopped the vehicle and the child was taken to the hospital, where it was declared as brought dead. The prosecution has not proved the culpable rashness and negligence and the evidence of PW3 should not be believed by this Court. Alternatively, the learned counsel would also argue on the question of sentence.



5.Per contra, the learned Government Advocate would submit that the prosecution has proved the culpable rashness and negligence beyond any reasonable doubt. It can be seen that the places nearby has a school and houses, which would be clear from the rough sketch that is filed. There is also a junction in the said area. The accused should have driven the vehicle carefully and only because he drove it in a rash and negligent manner in high speed, the accident had happened. Therefore, he would submit that there is no ground to interfere with the judgment of the Courts below.

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

7.It is seen that PW3 is an eyewitness and even though the accused side has duly cross-examined him, they have not got any favourable answers. PW2 evidence also corroborates to that of PW3. Therefore, in this case, by considering the oral evidence and the rough sketch that is filed and marked as Ext.No.6 and considering the other supporting evidence, such as that of the



Motor Vehicle Inspector, etc., categorically bringing on record that the accident did not happen due to any mechanical fault, I am of the view that the prosecution has proved the charges beyond any reasonable doubt. Further, when the trial court and the first appellate court have duly arrived at a finding after due appreciation of evidence, no ground is made out for exercise of revisionary jurisdiction.

8.However, I have considered the detailed arguments that were made with regard to the question of sentence. It is now stated that the accused is presently 32 years old and there is no other bad antecedent as against the accused. The same is taken into account. The second factor is that the accused is facing this case from the year 2022 and the same is also considered. Thirdly, it is also further stated that the accused has got married very recently, is also taken into account. It is also stated that on account of lack of awareness, originally the claim petition was not filed, but now the same has also been filed in the year 2025. It is also asserted by both sides that there is a due insurance cover as on the date of the accident and the accused also had a valid licence as on the date



of the accident. It is brought to the notice of the court that after dismissal of the appeal, the accused had undergone imprisonment for a period of 8 days and has also paid the fine amount. These said facts are taken into account.

9.I am of the view that, considering the overall facts and circumstances of the case, the manner in which the accident happened, and the accident does not show any aggravated or egregious conduct etc., the period of imprisonment imposed by the trial court alone can be modified into one already undergone by the petitioner/accused.

10.Accordingly, this Criminal Revision stands partly allowed;

(1) the finding of guilt and conviction of the accused for the offense under Section 279 and 304 (A) of the Indian penal Code by the judgement of the Judicial Magistrate-II, Mayiladuthurai dated 11.12.2023, made in C.C.No.18 of 2022 and confirmed by the District and Sessions Judge, Mayiladuthurai by judgment dated 16.08.2024 in C.A.No.1 of 2024 stands confirmed and the fine amount imposed by the trial court also stands confirmed and the fact that it is



already paid is also recorded. As far as the imprisonment is concerned, the same is modified as one of period already undergone.

31-10-2025

Tsg

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

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1.The Inspector Of Police, Pagasalai
Police Station, (Crime No.10/2022).

2.The Judicial Magistrate – II,
Mayiladuthurai.

3.The District and Sessions Judge,
Mayiladuthurai.

4.The Public Prosector,
Madras High Court.



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**D.BHARATHA
CHAKRAVARTHY J.**

Tsg

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