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Crl.R.C.No.1926 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.1926 of 2024

Pugazhenth

.. Petitioner

Versus

State Rep by
Inspector of Police,
Poraiyar Police Station,
Cr.No.182 of 2018

.. Respondent

Prayer : Criminal Revision Case filed under Section 438 r/w 442 of BNSS, to call for the records and set aside the order passed by the learned District Judge, Mayiladuthurai in Crl.A.No.18 of 2023, dated 06.08.2024 confirming the order of the learned District Munsif-cum-Judicial Magistrate, Tharangambadi in C.C.No.116 of 2019, dated 08.09.2023 and allow the Criminal Revision Petition.

For Petitioner : Mr.R.Shivakumar,
for M/s.K.M.Vijayan Associates



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Crl.R.C.No.1926 of 2024

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



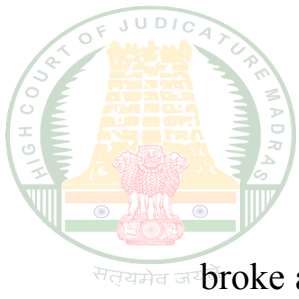
Crl.R.C.No.1926 of 2024

ORDER

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This Criminal Revision Case is filed challenging the judgment of the learned District Judge, Mayiladuthurai, dated 06.08.2024 made in C.A.No.18 of 2023. By the said judgment, the conviction and sentence imposed by the Trial Court was confirmed by the Appellate Court. The learned District Munsif-cum-Judicial Magistrate, Tharangambadi, by the judgment, dated 08.09.2023 made in C.C.No.116 of 2019, had found the accused guilty for the offence under Section 304-A of the Indian Penal Code and sentenced to undergo Simple Imprisonment for a period of one year.

2. The case of the prosecution is that on 04.06.2018, at about 8.30 A.M, in the Thirukadiyur to Veppanjeri road near the land belonging to one *Ambika*, the accused drove Bolero Pickup vehicle bearing registration No.TN82 A 0576 with high speed and rash and negligent manner and hit against the Motorcycle bearing registration No.TN82 D 4312, in which, the deceased was travelling and the helmet which the deceased was wearing,

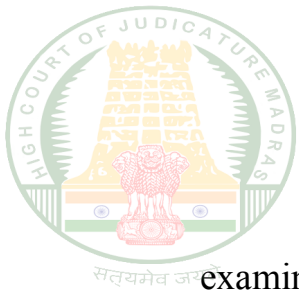


Crl.R.C.No.1926 of 2024

WEB COPY

broke and he sustained injury on the head and his brain came out of the skull and died on the spot. Accordingly, a case in Crime No.182 of 2018 was registered.

3. *P.W.6* took up the case for investigation and filed a Final Report proposing the accused guilty of the offence. Upon issue of summons and questioning, the accused denied the allegations and stood trial. In order to prove the allegations, the *de facto* complainant, the father of the deceased, who heard about the accident and lodged a complaint, was examined as *P.W.1*. One *Senthil Kumar*, who was also coming alongside the Bolero vehicle in the same road who witnessed the accident, was examined as *P.W.2*. Another eye witness, who also came along the same side as the Bolero vehicle and witnessed the accident, was examined as *P.W.3*. One *Lakshminarayan*, who was the witness for the observation mahazar and rough sketch, was examined as *P.W.4*. One *Mohan*, who registered the First Information Report, was examined as *P.W.5*. The Investigating Officer was



Crl.R.C.No.1926 of 2024

WEB COPY

examined as *P.W.6*. On behalf of the prosecution, the complaint was marked as *Ex.P-1*. The observation mahazar was marked as *Ex.P-2*. The First Information Report was marked as *Ex.P-3*. The rough sketch was marked as *Ex.P-4*. The Inquest Report was marked as *Ex.P-5*. The Post Mortem Report was marked as *Ex.P-6*. The Motor Vehicle Inspection Report was marked as *Ex.P-7* which was of the offending vehicle, driven by the accused. The Motor Vehicle Inspection of the two wheeler was marked as *Ex.P-8*.

4. Upon being questioned about the incriminating evidence and the material circumstances on record, the accused denied the same as false. Thereafter, no evidence was let in on behalf of the defence. The Trial Court considered the arguments of the learned Assistant Public Prosecutor and the learned Counsel for the accused and convicted the accused under Section 304-A of the Indian Penal Code and sentenced as above. The Appellate Court, after re-appreciation of evidence also, confirmed the conviction and



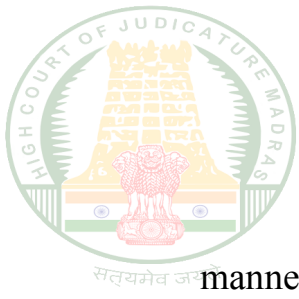
Crl.R.C.No.1926 of 2024

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sentence.

5. Heard *Mr.R.Shivakumar*, learned Counsel for the petitioner and *Mr.J.Subbiah*, learned Government Advocate (Crl. Side) for the respondent.

6. The learned Counsel for the petitioner would first submit that the prosecution is duty bound to prove that the death of the deceased happened due to the accident and in that regard, they did not examine the Doctor who conducted the Post Mortem and discharged the onus. The learned Counsel further submit that the Motor Vehicle Inspector was not examined to prove that the accident did not happen on account of any mechanical fault of the Motor Vehicle. Even though both these documents were marked as exhibits. The contents were not proved by the prosecution. The learned Counsel would further submit that the cross-examination of the so-called eye witnesses namely, *P.W.2* and *P.W.3* would reveal that firstly, their presence in the said spot itself is doubtful as there is contradiction and secondly, the

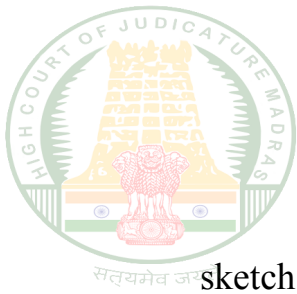


Crl.R.C.No.1926 of 2024

WEB COPY

manner, in which they are travelling, as they were not in a position to see how exactly the accident have happened. It is in this context, the Motor Vehicle Inspection Report of the Bolero Pickup Vehicle, which has to be considered by this Court. According to the learned Counsel, the report does not mention any damage to the vehicle except the one which is seen in the rear view mirror alone. In that view of the matter, the accident that is said to have happened, is with huge damage to the Motor bike. Therefore, it is quite possible that without any collusion also, the bike would have hit against the Karuvelam trees on either side of the road and the accident could have happened. There is no proper evidence to prove the culpable rash and negligence on the part of the petitioner. Therefore, the finding of the Trial Court as well as the Appellate Court, is liable to be interfered with.

7. Per *contra*, the learned Government Advocate (Crl. Side) for the respondent would submit that *P.W.2* and *P.W.3* were natural witnesses and the road is a village road. The road is only 10 feet in width. The rough



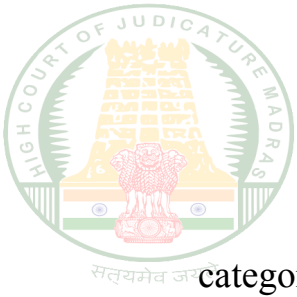
Crl.R.C.No.1926 of 2024

WEB COPY

sketch would clearly show that the spot of the accident is on the extreme left hand side and therefore, categorically, it was the rash driving on the part of the petitioner. The manner, in which, the helmet was broken and the brain came out of the skull, itself would adumbrate the gruesome accident that happened on account of the rash and negligent driving of the petitioner. Therefore, the Trial Court and the Appellate Court had rightly consider the issue and there is nothing for this Court to interfere in the revisional jurisdiction.

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

9. The Court has to consider the manner of accident. *P.W.2* and *P.W.3* and also the hearsay witness, all categorically mention that the helmet that was worn by the deceased, had broken into pieces and the brain has come out of the skull. Therefore, the manner, in which, the person died is



Crl.R.C.No.1926 of 2024

WEB COPY

categorically on account of the accident. Therefore, merely because the Post Mortem Doctor is not examined, the same will not in any manner tender the prosecution case invalid. Similarly, though the Investigating Officer should have taken care to examine the Motor Vehicle Inspector, the very Inspection Report is also relied upon by the learned Counsel to argue with reference to the damage of the vehicle. Therefore, non-examination of the Motor Vehicle Inspector alone will not be fatal to the case of the prosecution.

10. It is true that there is no damage at all that is caused to the Bolero Pickup vehicle except for the damage at the place of rear-view mirror. It is in this context, one of the eye witnesses, *P.W.2* says that the bike came into contact with the front wheel of the Bolero vehicle and thus, the accident happened. Therefore, if such a thing would have happened, then, coupled with the fact there is a minor damage to the rear-view mirror, the manner, in which, the accident happened, can be comprehended. Therefore, the said contention cannot also be accepted.



Crl.R.C.No.1926 of 2024

WEB COPY

11. It may be true that the further impact could have also been from the trees when the person has been thrown out of the motor cycle. The manner, in which, the body was lying, has been categorically spoken. There is no need to suspect the Inquest Report or the position, in which, the body was lying being explained by *P.W.2* and *P.W.3*, which is all spontaneous and without any contradiction and inspires the confidence of this Court. Therefore, the prosecution has categorically proved that the vehicle was driven in a high speed and in a rash and negligent manner. Therefore, I am unable to accept the contention that are raised by the learned Counsel for the petitioner.

12. However, with reference to the question of sentence, the case requires interference. Firstly, I take into consideration that the petitioner was aged 25 years as on date of accident. He was eking out his livelihood as the Driver of the Bolero Pickup Vehicle which is used in the coastal area for



Crl.R.C.No.1926 of 2024

WEB COPY

loading fish etc. The width of the road, being 10 feet is also taken into account. The vehicle stopped immediately is also taken into account by this Court. The petitioner is not involved in any other case either prior to the accident and subsequent to the accident, is also taken into account. Therefore, sentencing should not be unduly harsh and at the same time, should be sufficient enough so that the accused realises the effects of the crime and also it should not be unduly light for people to take the criminal justice system itself in a lighter manner. The possibility of the deceased coming in a high speed cannot also be ruled out considering the fact that the helmet had broken into pieces while there is no great damage to the Bolero Pickup vehicle. The petitioner is also facing this case and proceedings from the year 2019 i.e., for the past six years. Therefore, for all the reasons, I am of the view that the sentence that was imposed by the Trial Court, can be modified to the Simple Imprisonment for a period of 10 days and to pay a fine of Rs.2,000/-.



Crl.R.C.No.1926 of 2024

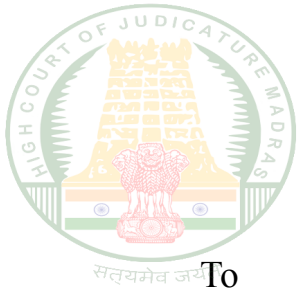
13. In view thereof, this Criminal Revision Case is allowed in part.

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The finding of guilt of the offence under Section 304-A of the Indian Penal Code by the learned District Munsif-cum-Judicial Magistrate, Tharangambadi, by the judgment, dated 08.09.2023 in C.C.No.116 of 2019, as confirmed by the learned District Judge, Mayiladuthurai, by the judgment, dated 06.08.2024 in C.C.No.116 of 2019, shall stand confirmed. The sentence imposed on the petitioner by the Trial Court is modified and the petitioner is sentenced to undergo Simple Imprisonment for a period of 10 days and to pay a fine of Rs.2,000/- and in default, the petitioner shall undergo Simple Imprisonment for another five days. Three weeks time from today is granted to the petitioner for surrender before the Trial Court.

19.08.2025

Neutral Citation : no
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Crl.R.C.No.1926 of 2024

To
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1. The District Judge,
Mayiladuthurai.
2. The District Munsif-cum-Judicial Magistrate,
Tharangambadi.
3. The Inspector of Police,
Poraiyar Police Station,
Poraiyur.
4. The Public Prosecutor,
High Court of Madras.



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Crl.R.C.No.1926 of 2024

D.BHARATHA CHAKRAVARTHY, J.,

grs

Crl.R.C.No.1926 of 2024



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Crl.R.C.No.1926 of 2024

19.08.2025