



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated	:	27.10.2025
-------	---	------------

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.R.C.(MD).No.592 of 2019
and
CrI.M.P.(MD).No.7402 of 2019

Murugan

...Petitioner

Vs.

The State of Tamil Nadu,
Rep by
The Inspector of Police,
Rajakkamangalam Police Station,
Rajakkamangalam,
Kanyakumari District.
Crime No.89 of 2012

... Respondent

PRAYER : This Criminal Revision Case has been filed under Section 397 and 401 of Cr.P.C., to call for and examine the records relating to the order passed in C.A.No.33 of 2014 on the file of the learned Additional District and Sessions judge, (Fast Track Court) Kanyakumari at Nagercoil on 17.07.2019 confirming the conviction and sentence passed by the learned Chief Judicial Magistrate, Nagercoil in C.C.No.23 of 2014 on 19.06.2015 and to set aside the conviction and sentence passed therein agaisnt the petitioner and acquit the petitioner.



For Appellant : Mr.A.Robinson for
Mr.M.Saravanan

For Respondents : Mrs.M.Aasha
Government Advocate (Criminal Side)

ORDER

The accused in C.C.No. 23 of 2014 on the file of Chief Judicial Magistrate, Kanyakumari District has filed this criminal revision case, challenging the judgment of the learned Additional Sessions Judge, Fast Track Court, Kanyakumari at Nagercoil, confirming the conviction and sentence imposed against him for the offence under Sections 279, 338, 304A of IPC, vide judgment dated 19.06.2015 by the learned Chief Judicial Magistrate, Nagercoil in C.C.No.23 of 2014:

<i>Sl.No.</i>	<i>Offence under Sections</i>	<i>Punishment</i>
1	279 of IPC	To undergo 6 months of Rigorous Imprisonment
2	337 of IPC	To undergo 3 months of Rigorous Imprisonment
3	304(A) of IPC	To undergo one year of Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default to undergo 3 months of simple imprisonment.
<i>All the sentence shall run concurrently</i>		

As against the conviction and sentence imposed by the learned Chief Judicial Magistrate, Nagercoil the petitioner herein has filed a Criminal Appeal in CrI.A.



(MD).No.33 of 2015 before the learned Additional District and sessions Judge, Fast Track Court, Kanyakumari at Nagercoil. The learned Appellate Judge, has confirmed the same vide judgment dated 17.07.2019.

2.On 01.03.2012 at 17.15 hours, when P.W.1 was riding his two-wheeler along with the deceased as a pillion rider near Rajakampalam, Nagarkovil main road, near Pillaiyar Kovil on the National Highways, the petitioner allegedly drove the bus bearing registration No.TN-55-F-3420 in a rash and negligent manner and dashed at the backside of the two-wheeler, and thereby P.W.1 suffered injuries and the Pillion rider died. Therefore, P.W.10 registered a case under Sections 279, 337, 304(A) of IPC, in Crime No.89 of 2012. Subsequently, P.W.13 completed the investigation and filed the final report against the accused under the above sections before the learned Judicial Magistrate No.1, Nagarkovil and the same was taken on file and subsequently, transferred to the learned Chief Judicial Magistrate, and same was taken on file in C.C.No.23 of 2014.

3.After taking the cognizance under the above sections, the learned Chief Judicial Magistrate issued the summons to the accused and served the copies under Section 207 of the Cr.P.C and subsequently, framed the charges and explained to the petitioner and he pleaded not guilty and claimed to be tried.



WEB COPY

4.The prosecution to prove the case examined P.W.1 to P.W.13 and marked Ex.P1 to Ex.P8. Thereafter, the learned Chief Judicial Magistrate examined the accused under Section 313 Cr.P.C by putting the incriminating material available against him on the basis of the evidence of prosecution witnesses and the documents. The accused denied them as false and also stated that he was falsely implicated and never drove the vehicle in question at the time of accident. Therefore, he stood trial.

5.The learned trial judge has considered the entire evidence and convicted the accused and imposed sentence of imprisonment as stated supra by the judgment dated 19.06.2015. Aggrieved over the same, the petitioner filed Criminal Appeal in CrI.A.No.33 of 2015, on the file of learned Additional District and Sessions Judge, Nagercoil. The learned appellate judge also confirmed the same by judgment dated 17.07.2019. Challenging the same, the present revision has been filed by the petitioner to set aside the conviction and sentence imposed by both the Courts below.



WEB COPY

6. The learned counsel for the petitioner would submit that, according to the prosecution, P.W.1 is the injured witness, P.W.2 and P.W.6 are the eyewitnesses to the occurrence. On the basis of that, both the Courts below convicted the accused. The learned counsel would submit that according to the evidence of P.W.1, he rode his two wheeler and he did not depose about the rash and negligent act of the petitioner. In his cross-examination, he specifically admitted that he did not see the bus which came behind his two-wheeler and how the occurrence took place. P.W.2 also stated that he did not disclose during police enquiry about the fact that the petitioner drove his vehicle in a rash and negligent manner. He only reached the place on hearing the crashing noise. He also admitted that he did not disclose the identity and the name of the accused during the police investigation. P.W.6, another witness, specifically deposed that he did not know about the person who drove the bus. Another witness examined from the college of the bus, which is said to have been involved in the occurrence, would depose that they did not produce any record to show that the petitioner drove the vehicle on the date of the occurrence. Both the Courts below failed to see the above material aspect of the evidence, which is clearly perverse according to the learned counsel for the petitioner and hence, he seeks to set aside the conviction and sentence passed against the petitioner. The learned counsel would also submit that even P.W.6 has clearly stated that the occurrence



place is the bus stop and ahead of the two-wheeler, a college bus, belonging to the same college was waiting and before that also there was a Government bus standing at the bus stop. He also admitted that due to the parking of buses, all vehicles were coming slowly to stop at the bus stop. The case of the prosecution that he dashed behind the two-wheeler in a rash and negligent manner is not supported by the evidence of the Motor Vehicle Inspector, who did not find any damages to the backside of the two-wheeler. Hence, he seeks to acquit the accused.

7.The learned Government Advocate (Criminal Side), on the other hand would submit that the entire evidence was properly appreciated by both the Courts below and there was no error committed by both the Courts below and hence, there was no circumstance to interfere with the concurrent finding. The appellate Court correctly inferred from the circumstances about the culpability as the accused himself had surrendered before the Court. Hence, this additional circumstance also was correctly appreciated by the learned trial judge and the learned appellate judge. Therefore, he seeks to confirm the same. He also submitted that the above argument of the learned counsel appearing for the petitioner are not material contradictions and the same are minor in nature. Moreover, the examination of witnesses has taken place after a long gap of the



occurrence. Hence, the same minor discrepancies and likely to occur. Hence, he seeks to confirm the same.

8.This Court considered the rival submissions made by the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

9.Whether the conviction under Sections 279, 337 and 304(A) of IPC as against the petitioner is sustainable?

10.From the evidence of P.W.1, P.W.2 and P.W.6, it is clear that occurrence place is a bus stop. In the bus stop, already a government bus and another bus of the same college were found parked and hence, the two wheeler was slowly ridden by P.W.1 and at that time the petitioner is said to have driven his vehicle in a rash and negligent manner and dashed behind the two wheeler. P.W.6 clearly admitted that due to the parking of the buses all other buses were coming slow in order to stop at the bus stop and he did not know who drove the vehicle. P.W.1 also did not disclose about the name of the person who drove the vehicle. In his cross examination, he admitted that he did not notice the bus coming behind him and admitted case of P.W.2 that immediately after accident, he became unconscious. P.W.2 clearly deposed that he did not disclose the identity as to who drove the vehicle on the date of the occurrence during the police investigation. Therefore, there is a lack of evidence that on the date of the



occurrence, whether the accused was driving the vehicle in question. Apart from that, both the Courts below have taken the surrender of the accused before the police station as a material circumstance to convict the accused. It is a well-settled principle that surrender of the accused is not a circumstance to convict the accused without proof of the involvement of the accused in the occurrence and as held by the Hon'ble Supreme Court in the case of **Nagaraj v. State**, reported in **(2015) 2 SCC (Cri) 724**

11. No suspicious or ulterior slant can be attributed to the accused for surrendering before the Judicial Magistrate after one-and-a-half years, particularly given that there were no outstanding warrants for his arrest or even for participating in the investigation...

The said principle also has been reiterated by various High Courts. Apart from that, the one of the witness examined from the college did also not furnish any documentary evidence to show that the accused had been driving the vehicle at the time of the accident and more particularly, there was a bus of the same college parked in the bus stop to drop the students ahead of the two-wheeler in question.

11. In view of the above circumstances, this Court finds that there was a perversity in the finding of both the Courts below in holding that the accused drove the vehicle in question. Merely the college bus was found at the scene of



the occurrence, that itself is not a circumstance to show that the accused drove the vehicle without any documents to prove that accused drove the vehicle and in the absence of evidence regarding identity of the driver. Therefore, this Court is inclined to set aside the conviction and sentence passed against the appellant.

12. Further, the admitted case of P.W.6 is that it was a bus stop and all the buses were coming slowly and no evidence was adduced on the side of the prosecution through witnesses P.W.1, P.W.2 and P.W.6 that the accused drove the vehicle in a rash and negligent manner. Therefore, the prosecution miserably failed to prove that the accused drove his vehicle in a rash and negligent manner and caused death to the deceased and injury to P.W.1.

13. In view of the above discussion, this Court is inclined to set aside the judgments of both the Courts below by holding that both the involvement of the accused and also the negligence on the side of the petitioner were proved.

14. In result, this Criminal Revision Case stands allowed in the following terms:

14.1. The conviction and sentence imposed against the petitioner in C.C.No.23 of 2014 by the learned Chief Judicial Magistrate, Nagercoil dated 9/12



19.06.2015 and the judgment in C.A.No.33 of 2014 by the learned Additional District and Sessions Judge, Fast Track Court, Nagercoil, Kanyakumari dated 17.07.2019 are hereby set aside.

14.2.The petitioner is hereby acquitted from all the charges framed against him.

14.3.The bail bond executed by the petitioner, if any, stands cancelled and the fine amount, if any, paid shall be refunded.

Consequently, connected Criminal Miscellaneous Petition stands closed.

27.10.2025

NCC	Yes/No
Internet	Yes/No
Index	Yes/No

sbn



To

WEB COPY

1. The learned Chief Judicial Magistrate,
Nagercoil, Kanyakumari.
2. The learned Additional District and Sessions Judge,
Fast Track Court, Nagercoil, Kanyakumari.
3. The Inspector of Police,
Rajakkamangalam Police Station,
Rajakkamangalam,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



K.K.RAMAKRISHNAN.J,

sbn

Crl.R.C.(MD).No.592 of 2019

27.10.2025