



Crl.R.C.(MD)No.1278 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated	:	20.08.2025
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THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

CRL.R.C.(MD)No.1278 of 2022

Vilbert John

... Petitioner

vs.

The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.
Crime No.150 of 2014.

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 r/w 401 Cr.P.C., to call for the records and set-aside the conviction passed by the learned Additional District and Sessions Judge, Virudhunagar in Crl.A.No.45 of 2019 by the judgment dated 16.11.2022, by confirming the conviction and modifying the sentence imposed by the learned Judicial Magistrate No.I, Virudhunagar in C.C.No.189 of 2014 by judgment dated 02.11.2019.



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Crl.R.C.(MD)No.1278 of 2022

For Petitioner :Mr.R.Pon Karthikeyan

For Respondent :Mr.M.Karunanidhi
Government Advocate (Crl Side)

ORDER

The petitioner/accused in C.C.No.189 of 2014 on the file of the learned Judicial Magistrate No.I, Virudhunagar, has filed this Criminal Revision Case before this Court, challenging the conviction and sentence imposed against him in the impugned judgment dated 02.11.2019. The conviction and sentence is as follows:

<i>Case No</i>	<i>Conviction for the Offence under Section</i>	<i>Sentence Imprisonment</i>	<i>of Fine</i>	<i>Default Sentence</i>
C.C. No.189 of 2014	279 and 304 (A) (2 counts) of IPC	Sentenced to undergo rigorous imprisonment for a period of one year for (each count) and the sentence shall run consecutively	--	---
C.A. No.45 of 2019	279 and 304 (A) (2 counts) of IPC	Sentenced to undergo rigorous imprisonment for a period of one year for (each count) and the sentence shall run concurrently	--	---



Crl.R.C.(MD)No.1278 of 2022

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2.For the convenience and brevity of the discussion of the case, the rank of the parties mentioned in C.C., are referred hereunder;

2.1 Brief facts of the case:

On 16.07.2014, at about 4.50 am., the deceased, namely Shanmugasundarm was waiting for bus in R.R.Nagar Bus Stop, and at that time another deceased, namely, Mummoorthy was supplying milk on his TVS Motor Cycle, and during that time, the petitioner drove a lorry bearing Registration No.TN-04-AE-7776 from south to north on Kanyakumari National Highways, and suddenly entered into service road and ran over both the deceased and caused their death. Thereafter, on the basis of the complaint given by the complainant, the respondent police has registered a case in Crime No.150 of 2014 for the offence punishable under Sections 279 and 304(A) of IPC (2 counts), before the learned Judicial Magistrate No.I, Virudhunagar. The same was taken on



Crl.R.C.(MD)No.1278 of 2022

file in C.C.No.189 of 2014.

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2.2.The learned Judicial Magistrate No.I, summoned the accused and framed the necessary charges and questioned the accused and the accused pleaded not guilty and claimed to be tried.

2.3. After appearance of the accused, copies of records were furnished to him under Section 207 Cr.P.C. The learned Trial Judge, on perusal of records and on hearing both sides and being satisfied that there existed a *prima facie* case against the accused/appellant, framed charges under Sections 279 and 304(A) (2 counts) of IPC and the same was read over and explained to him and on being questioned, the accused/appellant denied the charges and pleaded not guilty and stood trial.

2.4.The prosecution, in order to prove its case, had examined 15 witnesses as P.W.1 to P.W.15 and exhibited 11 documents as



Crl.R.C.(MD)No.1278 of 2022

Ex.P.1 to Ex.P.11.

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2.5. When the accused was examined under Section 313(1) (b) of Cr.P.C., with regard to incriminating aspects against him, he denied the evidence as false and further stated that a false case has been foisted against him. The accused neither produced any documents nor examined any witness on his side.

2.6. The learned Trial Judge, considering the materials and circumstances found that the accused/petitioner in C.C.No.189 of 2014 was guilty and passed the conviction and sentence as against the petitioner as stated above. Aggrieved over the same, the petitioner herein filed an appeal before the Additional District Judge, Virudhunagar, in C.A.No.45 of 2019. On 16.11.2022, the learned Additional District Judge, partly allowed the appeal, and reduced the sentence as stated above. Challenging the concurrent finding of the Courts below, the petitioner herein has filed this Criminal Revision Case before this Court.



Crl.R.C.(MD)No.1278 of 2022

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3.The learned counsel for the petitioner would submit that on going through the records and on appreciation of the facts of the evidence of P.W.1 and other witnesses and from the sketch marked on the side of the prosecution shows that there was no criminal negligence on the part of the petitioner. He also stated that in order to avoid dashing against the Government Bus, which had suddenly stopped on the main road, the petitioner swerved into the service road and one of the passenger on seeing the bus in the bus stop, carelessly got into the bus and another two wheeler came on the opposite side and rammed into the petitioner's lorry. Therefore, there was no negligence on the part of the petitioner. Further, the record would show that, the lorry was heavily laden and there is no question of rash driving, but, the same was not properly appreciated by both the Courts below. Hence, he seeks to set aside the concurrent finding given by both the Courts below.

4.The learned Government Advocate (Criminal Side), on the other hand would submit that there was no evidence to



Crl.R.C.(MD)No.1278 of 2022

substantiate the plea of the petitioner that in order to avoid the accident, the petitioner swerved into service road and the same has been properly considered by both the Courts below and there was no reason to interfere with the same. Therefore, he seeks to confirm concurrent finding of both the Courts below.

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

6. There is a fundamental difference between criminal negligence and the civil negligence. Criminal negligence is entirely different from the civil negligence. Prosecution is duty bound to prove the rash and negligence by satisfying the ingredients stated under Section 304(A) of IPC. In the considered opinion of this Court, going by the following reason, the prosecution failed to prove the above ingredients.



Crl.R.C.(MD)No.1278 of 2022

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7.From the records, it is clear that the accused/petitioner drove the lorry bearing Registration No.TN-04-AE-7776, south to north. At that time, the Government Bus without giving any signal abruptly stopped the bus on the main road, without entering the service road to carry the passengers. Therefore, in order to avoid, the said accident, the petitioner swerved into service road and one of the passenger without noticing on coming lorry suddenly crossed the road in order to get into the bus and the two wheeler also came on the wrong side and rammed into the lorry. In the factual circumstances, this Court cannot presume any rash and negligence on the part of the petitioner. The prosecution miserably failed to prove the rash and negligent driving on the part of the petitioner and both the Courts below failed to consider the evidence in a proper manner and render finding on surmise and conjecture and hence, this Court is inclined to interfere with the finding of both the Courts below. Therefore, this Court is inclined to set aside the conviction and sentence passed by the learned Judicial Magistrate No.I,



Crl.R.C.(MD)No.1278 of 2022

Virudhunagar in C.C.No.189 of 2014 dated 02.11.2019 and the judgment passed by the learned Additional District and Sessions Judge, Virudhunagar in C.A.No.45 of 2019 dated 16.11.2022.

8.Accordingly, this Criminal Revision Case, stands **Allowed** in the following terms:

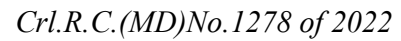
8.1.The judgment passed by the learned Judicial Magistrate No.I, Virudhunagar in C.C.No.189 of 2014 dated 02.11.2019 and the judgment passed by the learned Additional District and Sessions Judge, Virudhunagar in C.A.No.45 of 2019 dated 16.11.2022 are hereby set-aside.

8.2.The petitioner is hereby acquitted from the charges levelled against him.

8.3.Bail bond executed by the petitioner, if any, shall stands terminated.

20.08.2025

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
sbn



- 1.The Judicial Magistrate No.I, Virudhunagar District
- 2.The Additional District and Sessions Judge,
Virudhunagar.
- 3.The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Section Officer,
Record Section (Criminal)
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C.(MD)No.1278 of 2022

K.K.RAMAKRISHNAN, J.

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CRL.R.C.(MD)No.1278 of 2022

20.08.2025