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Criminal Revision Case No.1763 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON :28.11.2025

ORDERS PRONOUNCED ON :07.01.2026

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Criminal Revision Case No.1763 of 2024

Sivakumar

... Petitioner

Vs.

1.The State rep by its
The Inspector of Police
Kadamparai Police Station
Coimbatore – 641 017

2.Tamil Nadu State Transport Corporation
Represented by its Managing Director
Mettupalayam Road, Coimbatore – 641 043.

3.The Regional Transport Officer
Venkatesa Colony, Pollachi
Tamil Nadu – 642 002.

(RR2 and 3 are suo-motu impleaded as per the
order of this Court dated 14.11.2025 in
Crl.R.C.No.1763 of 2024)

... Respondents

PRAYER: Criminal Revision Case is filed under Section 438 read with 442 of
the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the judgment passed

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in Criminal Appeal No.399 of 2019 dated 18.04.2024 by the IV Additional District and Sessions Judge, Coimbatore as well as the judgment of conviction passed by the District Munsif cum Judicial Magistrate, Valparai in C.C.No.46 of 2013 dated 11.11.2019 and by allowing the Criminal Revision Petition.

For the Petitioner : Mr.V.Sivakumar
for Ms.T.Kalpanadevi
For the Respondents : Mr.S.Vinothkumar
Government Advocate (Crl.Side) for R1
Mr.S.Aswin
Standing Counsel for RR 2 & 3

ORDER

This Criminal Revision Case is filed against the judgment dated 11.11.2019 passed by the learned District Munsif cum Judicial Magistrate, Valparai, made in C.C. No.46 of 2013, and the judgment dated 18.04.2024 of the learned IV Additional District and Sessions Judge, Coimbatore, made in Crl. A. No. 399 of 2019. By the aforementioned judgment, the Trial Court convicted the petitioner herein for an offence under Section 279 of the IPC and imposed a fine of Rs.1,000/-, and in default of payment of the fine, to undergo one month's simple imprisonment; for the offence under Section 337 of the IPC (19 counts), to pay a fine of Rs.500/- for each count, in all totaling Rs.9,500/-, in default to



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undergo one month's simple imprisonment; for the offence under Section 338 of the IPC (22 counts), to pay a fine of Rs.1000/- for each count, in all totaling Rs.22,000/-, in default to undergo two months' simple imprisonment; for an offence under Section 304(A) of IPC (8 counts), to undergo one year's simple imprisonment for each count, in all to undergo eight years' simple imprisonment, and also to pay a fine of Rs.1,000/-, in default to undergo two months' simple imprisonment. By the aforementioned judgment in appeal, the Appellate Court confirmed the conviction and sentence and dismissed the appeal. As against which, the present Criminal Revision is filed.

2. The prosecution case is that, on 24.11.2012 at about 22.00 hours, within the limits of Kadamparai Police Station, the petitioner/accused, driven a bus belonging to the Tamil Nadu State Transport Corporation, bearing registration No. TN 33 N 2754, from Valparai to Palani on the Valparai to Pollachi main road, between the second and third hairpin bends, he drove the bus in a rash and negligent manner, dashing against the parapet wall on the edge of the road and plunging the bus into a deep gorge of 200 feet, resulting in an accident that killed eight persons and caused simple and grievous injuries to the passengers.



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3. One *Ponraj*, the Special Sub Inspector of Police, was on duty at the Kadamparai Police Station. Upon receipt of information by phone, he went to the Government Hospital, Pollachi. On the following day, i.e., on 25.11.2012, he recorded the statement from PW.1 – *Kutty Raja* at about 1.45 a.m., to the above effect, stating that he was sitting in the back seat and describing the injuries to various passengers, etc. On the strength of the information, a case in Crime No.26 of 2012 was registered on 25.11.2012 at about 3.30 a.m., for an alleged offences under Sections 279, 337 and 304(A) of IPC. Thereafter, PW.54 – the Inspector of Police took up the case for investigation, completed the investigation, and laid a final report, proposing the accused guilty of an offences.

4. Upon the case being taken on file, summons being issued to the accused, and after furnishing of copies and grant of due opportunity, charges for the offences were framed. The accused denied the charges and stood for trial. In order to bring home the charges, P.Ws. 1 to 54 were examined, and Exs. P1 to P63 were marked. The Trial Court thereafter considered the prosecution case and the defence of the accused and held that, by examining the passengers of the bus, including the passenger (P.W.39) who sat in the front seat alongside the petitioner/accused-driver and the evidence of the other passengers who travelled in the bus, the prosecution

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proved the charges beyond any reasonable doubt and rejected the defence version as if there was mechanical fault in the bus. The petitioner/accused was convicted and sentenced as aforesaid.

5. Upon the appeal being filed, the Appellate Court, after due appreciation of the evidence, again confirmed the conviction and sentence, against which the present revision is filed.

6. Heard *Mr. V. Sivakumar*, learned counsel appearing on behalf of the petitioner, who would first submit that in this case the identity of the bus that met with an accident, whether it was TN 38 N 2754 or TN 33 N 2754, is in doubt. This is because there was no permit for the vehicle TN 33 N 2754, which was wrongly changed to TN 38 N 2754, while all the documents, including the inspection report by the Motor Vehicle Inspector, etc., mention only TN 33 N 2754. Secondly, the instant bus that was given to the accused didn't have a valid permit to ply on the route, as it is a long-chassis bus, and it was unmindful of the ghat road having lesser breadth, hairpin bends, and a steeper gradient. The said bus under question was allotted to be driven by the accused, and there is absolutely no explanation whatsoever in the entire trial. Thirdly, the case of the accused from the beginning is that, suddenly the headlights of

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the bus went off, which only necessitated him to apply the brakes immediately. Upon which the bus swerved to the right-hand side and fell into the gorge. The said fact will be clear from the log book of the bus concerned in relation to the date of the accident, and the said evidence is completely buried by the prosecution in the instant case.

7. The learned counsel further, after reading the evidence of *Subramani* (P.W.39) and the other witnesses, would submit that the prime witness, *Subramani*, who was sitting beside the driver and talking to him, was in the bus when it was climbing down from Valparai towards Palani on the Valparai - Pollachi road. His evidence and the evidence of P.W.23 – the conductor of the bus – don't demonstrate that the bus was being driven in a rash and negligent manner, much less at high speed beyond the usual speed. The prosecution's case is that the bus was driven at a high speed around the hairpin bend and therefore lost control. This stands falsified by the Rough Sketch (Ex.P.54), which shows that the bus fell to the gorge, nowhere near the hairpin bends. The incident occurred between the two hairpin bends. Even from the Rough Sketch, it can be seen that the road at the site of the accident didn't have any major curves or turns. Thus, the version of the accused that suddenly there was a sound and the headlights also went off, and despite the driver trying to control the bus, the bus lost

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its control and hit the parapet wall and thereafter fell into the gorge, is the only believable version. The prosecution witnesses were at variance with respect to the core evidence regarding how the accident occurred and how culpable negligence or culpable rashness could be attributed to the petitioner/accused.

8. The Learned Counsel would submit that, on closer scrutiny, it is a case of no evidence at all as to how the accident had happened. P.W.39, who was sitting beside the driver in the front seat, is unable to pinpoint any reason. The other passengers, especially P.W.1, who was sitting in the back seat, cannot have any categorical view. All the passengers merely narrated as if the accused had driven the bus rashly. Therefore, this is a fit case where this Court should conclude that the finding of the Trial Court as well as the first Appellate Court is perverse in nature and that the prosecution has miserably failed to prove the charges against the petitioner/accused.

9. *Per contra*, the learned Government Advocate (Criminal Side) would submit that P.W.39 has categorically deposed that had the petitioner / accused driven the vehicle a little more slowly, he would not have lost control of the vehicle. Although the accident did not occur exactly at the hairpin bend, it occurred immediately thereafter, when the bus, while proceeding further, lost control and fell into the gorge.

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The petitioner/accused, being the driver of a regular-route bus, was well acquainted with the terrain, and there were no other incidents, such as a vehicle approaching from the opposite side, overtaking, an animal crossing, or a speed breaker. Suddenly, the bus lost control and swerved to the right. The left-hand side wheel went beyond the right margin after hitting the parapet wall, resulting in the bus rolling down the steep gorge. This can only be attributed to the petitioner's culpable rashness and culpable negligence.

10. The Learned Counsel would submit that, as a matter of fact, the Motor Vehicle Inspector was examined on the point that there was no mechanical fault. The medical evidence was let in with reference to the postmortem and the treatment advanced to the patients for simple and grievous injuries. Therefore, there is nothing for this Court to interfere in the revision.

11. During the course of hearing, the learned counsel raised an argument regarding the very identity of the bus and its being plied without a permit. This Court, *suo motu*, passed an order dated 14.11.2025, impleading the State Transport Corporation and the Regional Transport Officer, Pollachi, as respondents, and asked them to independently answer the questions therein, besides directing the first

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respondent also to answer. It is essential to extract paragraph No. 2 of the said order, which contained the questions, and the same is extracted hereunder,

“(i) Whether the Tamil Nadu Transport Corporation, Coimbatore or any other State Transport Corporation had a registered vehicle with registration No.TN38 N 2754. If so, what are the dimensions of the said vehicle?

(ii) In the instant case, ultimately, it is the case of the prosecution that the vehicle involved in the present accident is TN33 N 2754. What are the dimensions of the said vehicle? Whether the said vehicle has the permit to ply on the subject matter ghat road between Valparai and Palani?

(iii) Whether the subject matter Bus is a long chasis bus?

(iv) Now, finally, at least, at this point of time, what is the final answer of the respondent Nos.1 to 3? Whether the vehicle involved is TN38 N 2754 or TN33 N 2754?

(v) Whether the log book of the concerned vehicle involved is still available as it is said to be produced in the Labour Court proceedings as well as in the Writ proceedings? If so, produce the relevant record as to the date of accident.

(vi) Any other information they want to provide at this juncture?”

Separate affidavits are filed by the Investigating Officer, the Managing Director of the State Transport Corporation, Coimbatore, and the Regional Transport Officer, Pollachi, in that regard.

12. I have considered the rival submissions made on either side, perused the material records of the case and the affidavits filed by the authorities, pursuant to the order dated 14.11.2025.



13. Firstly, with reference to the argument of the learned counsel for the petitioner that the bus is a long-chassis bus which could not be plied on ghat roads, the affidavits of all the three authorities clearly show that the bus is a 210 wheelbase bus, which is permitted to run along the narrow ghat roads. It is only noted that the particular bus was permitted to ply between Valparai and High Forest, which is also a ghat road, whereas it was plied between Valparai and Palani. Secondly, it is only a typographical error that is contained in the Motor Vehicle Inspection Report and immediate observation report, etc., of the authorities, who have wrongly mentioned it as TN 38 instead of TN 33, and the bus that is driven by the petitioner is correctly mentioned in CC No. 46 of 2013 as TN 33 N 2754, and the number that is contained in TN 38 N 2754 is nothing but a typographical error. As a matter of fact, the entire number plate was not visible to the Motor Vehicle authority, in view of the mangling of the remains after the accident.

14. It is seen from the affidavit filed by the Managing Director, Tamil Nadu State Transport Corporation (Coimbatore) Ltd, that there was yet another bus with the said number, i.e., TN 38 N 2754. It is stated that the bus was plied in the plains and never plied on the ghat roads, and was ultimately condemned from the field. Therefore, I do not see much force in the submission of the learned counsel for the

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petitioner with reference to the identity of the bus or the wrong kind of long-chassis bus being permitted to ply on a narrow ghat road, which had only contributed to the accident.

15. The second submission made by the learned counsel for the petitioner is that there was a fault in the headlight of the bus operated by the petitioner, which alone resulted in the accident. In this regard, from the additional affidavit filed before this court and from the submissions of both the learned counsel, it is clear that the said log book was not produced as a document in the instant criminal case. However, even though today, it is pleaded by the learned counsel for the Managing Director of the Transport Corporation that a copy of the log book was not available with them, it is seen that in the connected disciplinary proceedings, when an approval petition was filed in A.P. No.231 of 2013, the said log book was marked on behalf of the petitioner as exhibit R.1. The identity of the said document is not disputed even by the newly impleaded second respondent, viz., the Tamil Nadu State Transport Corporation. Though the said document was never marked by the prosecution or on behalf of the defence, since it is stated that it is marked in the connected approval petition. The same was also taken up for perusal. However, there is no such remarks that is entered into in the log book. Thus, the second submission that is made by the

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learned counsel for the petitioner cannot be accepted.

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16. With reference to the manner of accident, it can be seen that the evidence of P.W.39 is very much believable, cogent and inspires the confidence of the Court. He has categorically stated that though the vehicle was not driven in a high speed, if the petitioner had driven the bus little more slower, could have avoided the accident. It is in this regard, the culpable negligence and culpable rashness is considered by the Hon'ble Supreme Court of Indian in *Alister Anthony Pareira Vs. State of Maharashtra*¹ and it can be seen that it is such conduct that is expected of the petitioner being the driver, so as to avoid the loss of life. Therefore, the contention that the vehicle was not driven in high speed cannot also be countenanced.

17. On a reading of the evidence in toto, this Court has no other option than to conclude that there is culpable rashness and negligence on the part of the petitioner and as such the finding of guilt as entered into by the Trial Court as well as the Appellate Court cannot be interfered with.

¹(2012) 2 SCC 648
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18. As far as the question of sentence is concerned, as found above, this is not a case which is involving any egregious conduct or grave negligence or rashness. However, since the vehicle fell into the gorge, it unfortunately resulted in loss of life and grievous injuries to several other persons. It is stated that the petitioner was in prison for a period of 13 days. In order to consider the quantum of punishment, the seriousness of the culpable act that is committed by the petitioner is taken into account and not the aftermath which is only on account of the fact that it is a ghat road. Considering the over all facts and circumstances of the case, the age of the petitioner, the manner in which the accident had happened, the fact that the petitioner/driver also suffered grievous injuries and the period of incarceration suffered by the petitioner, I am of the view that the period of imprisonment imposed by the Trial Court as confirmed by the Appellate Court alone shall be modified as one of period already undergone.

19. In view thereof, this Criminal Revision Case is partly allowed on the following terms,

(i) The conviction of the petitioner for the offences under Section 279, 337 of the IPC (19 counts), 338 of the IPC (22 counts), and 304(A) of IPC (8 counts), shall stand confirmed. However, the sentence of imprisonment alone is modified

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as period already undergone by the petitioner;

(ii) The fine amount imposed by the Trial Court in respect of the offences shall stand confirmed and the fact that it is already paid is recorded.

07.01.2026

Jer

Neutral citation : No

To

1.The IV Additional District and Sessions Judge
Coimbatore.

2.The District Munsif cum Judicial Magistrate
Valparai.

3.The Inspector of Police
Kadamparai Police Station
Coimbatore – 641 017

4.The Managing Director
Tamil Nadu State Transport Corporation
Mettupalayam Road, Coimbatore – 641 043.

5.The Regional Transport Officer
Venkatesa Colony, Pollachi
Tamil Nadu – 642 002.

6.The Public Prosecutor
High Court of Madras.

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D.BHARATHA CHAKRAVARTHY, J.,
Jer

Pre-Delivery Order made in
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