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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-01-2026

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 2070 of 2023

M.Vijayakumar

Petitioner(s)

Vs

State Rep by
The Inspector of Police
Thoppur Police Station,
Dharmapuri District
(Crime No.375/2012)

Respondent(s)

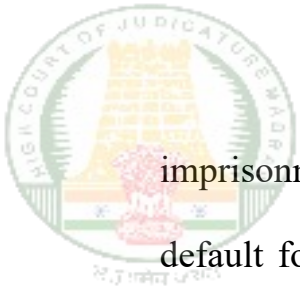
PRAYER: Criminal Revision filed under Section 397 r/w. 401 Cr.P.C. to set aside the judgment and sentence passed in Crl.A.No.30 of 2022 dated 16.10.2023 on the file of the Additional District and Sessions Judge, Dharmapuri confirming the judgment and sentence passed in C.C.No.87 of 2018 dated 24.08.2022 on the file of the Chief Judicial Magistrate, Dharmapuri.

For Petitioner(s): Mr.S.Sairaman

For Respondent(s): Mr.S.Balaji
Government Advocate (Crl.Side)

ORDER

This revision has been filed against the judgment in Crl.A.No.30 of 2022 passed by the learned Additional Session Judge, Dharmapuri, confirming the judgment passed in C.C.No.87 of 2018, convicting the petitioner under section 279, 337 (7 counts) and 304(A) IPC and sentencing him to undergo simple imprisonment for three months and to pay a fine of Rs.500/- in default to suffer simple imprisonment for one month under section 279 IPC, to undergo simple



imprisonment for three months each and to pay a fine of Rs.500/- each in default for one month each under Section 337 (7 counts) and to undergo one year simple imprisonment and to pay a fine of Rs.5000/- in default simple imprisonment for three months under Section 304 (A) IPC.

2.The gist of the prosecution case is that the petitioner drove a lorry in a rash and negligent manner and dashed the bus bearing registration No.TN 29 N 1773 from behind and caused death of one person and caused simple injuries to seven persons and thus committed the aforesaid offences.

3.The prosecution examined 20 witnesses to prove the offences against the petitioner. The trial court found the petitioner guilty of the aforesaid offences which was confirmed by the Appellate Court.

4.The learned counsel for the petitioner would submit that the prosecution had only established that an accident took place and had not established either rashness or gross negligence on the part of the petitioner; that the evidence of the witnesses PWs 1 to 6 who claim to have witnessed the occurrence cannot be believed as none of them had witnessed the occurrence and are of no avail to the prosecution and therefore, the impugned judgments are liable to be set aside.



5. The learned Government Advocate (Crl.side) per contra submitted that PW 1 Conductor, PW2 Driver and the other witnesses, namely, PWs 2 to 6 have established that the petitioner drove the lorry in a rash and negligent manner and dashed the bus from behind and caused injuries to seven persons and the death of one person and therefore, there is no infirmity in the findings of the Courts below and prayed for dismissal of the revision.

6. As stated above, the prosecution had examined 20 witnesses. PW1 is the Conductor of the bus, PW 2 is the Driver of the bus, PW 3 to 6 are the passengers who travelled in the bus, PWs 7 to 10 are the relatives of the deceased and hearsay witnesses, PWs 11 and 12 are inquest witnesses, PWs 13 and 14 are mahazar witnesses, of which PW14 turned hostile, PW 15 is the sister's husband of the deceased, PW 16 is the Inspector of Police, PW 17 is the Motor Vehicle Inspector, PW18 is the Doctor who conducted the postmortem, PW 19 is the Doctor who treated the injured witnesses, PW 20 is the Sub Inspector of Police who registered the FIR.

7. It is not in dispute that an accident took place on the date of occurrence. It is also not in dispute that the petitioner had rammed the lorry on the back side of the bus in which PWs 1 to 6 were travelling. The question is whether the prosecution had established that the said accident took place due to either the rashness or negligence on the part of the petitioner. In order to establish the said



fact, the prosecution had examined PWs 1 to 6 and the Motor Vehicle Inspector.

The other aspects of the case that one person died in the occurrence and 7 persons were injured and damage was caused to both vehicles are not disputed by the petitioner. PW 1 as stated above was the Conductor of the bus and PW2 was the Driver. Both PWs 1 and 2 deposed that the bus travelled for about 15 metres after it had stopped at the bus stop and at that time, the occurrence took place. Similarly, PWs 3 to 4 have stated that the petitioner was the Driver of the lorry who caused the accident. Strangely, none of the above witnesses have stated that the petitioner had driven the lorry either rashly or negligently. The prosecution had not examined any other witness who had witnessed the alleged occurrence from outside the bus except for the passengers in the bus. All the passengers including the Driver and Conductor could not have witnessed the manner in which the lorry was driven as admittedly the bus was hit from behind. Unfortunately, the petitioner also has not elicited any information from any of the witnesses.

8.A person cannot be prosecuted for the offences under section 304(A) IPC merely because an accident had taken place and the said accident caused the death of a person and caused injuries to 7 others. The prosecution is bound to establish that the accident took place only due to the rashness or negligence of the petitioner. The submission of the learned Government Advocate (Crl.Side) that the principles of *res ipsa loquitur* has to be applied also cannot



be accepted. In a case involving an offence under Section 304(A) of the IPC, where a person is accused of culpable negligence or rashness, '*res ipsa loquitur*' can only be used for the limited purpose of making a permissive inference under Section 114 of the Indian Evidence Act. This inference has to be considered along with the other circumstances / evidence on record and cannot be the sole basis for coming to any conclusion. This inference along with other firmly established circumstances must form a complete chain pointing to the guilt of the accused ruling out any other hypothesis. In this case, there is no other evidence adduced by the prosecution to establish culpable negligence or rashness on the part of the petitioner.

9. According to the prosecution, the bus was moving slowly after stopping at the bus stop and the incident said to have taken place at 8:15 p.m. In the absence of definite evidence adduced on the side of the prosecution that the accident took place due to the culpable rashness and negligence on the part of the petitioner, it would be highly unsafe to convict the petitioner for the alleged offences. Therefore, this Court is inclined to set aside the impugned judgments of the Court below.

10. Accordingly, the Criminal Revision Case is allowed. The conviction and sentence imposed upon the petitioner in C.C.No.87 of 2018, dated 24.08.2022, on the file of the Chief Judicial Magistrate, Dharmapuri, and



confirmed by the judgment passed in Crl.A.No.30 of 2022, dated 16.10.2023, on the file of the Additional District and Sessions Judge, Dharmapuri, are set aside. The petitioner is acquitted of the charges. The fine amount, if any, paid by the petitioner shall be refunded. Bail bond, if any, executed shall stand discharged.

02-01-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

1. The Additional District and Sessions Judge,
Dharmapuri.
2. The Chief Judicial Magistrate,
Dharmapuri.
3. The Inspector of Police,
Thoppur Police Station,
Dharmapuri District.
4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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