



**IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DINDIGUL**

**Present: THIRU. SWARNAM J RAJAGOPALAN, B.A.B.L.,(HONS.)
Additional District and Sessions Judge, Dindigul**

Wednesday, the 22nd day of April 2026

**CRIMINAL APPEAL NO.69/2024
(CNR.No.TNDG01-003521-2024)**

1.	Trial Court	:	Judicial Magistrate Court, Nilakottai
2.	Trial Court's Case No.	:	C.C. No.186/2024
3.	Appellant's Name	:	Kasipandi, aged 40/24, S/o.Rasu, Poosaripatti, Nilakottai, Dindigul
4.	Respondents'Name	:	State represented by The Inspector of Police, Ammayanayakkanur Police Station. Police Station in Crime No.260/2013
5.	To what Offence the trial court passed the order and the sentence	:	U/S.279, 337, 304(A)I.P.C. Accused was found guilty U/S 279of I.P.C. convicted and sentenced to undergo Simple imprisonment with a fine of Rs.1,000/- failing which to undergo one month simple imprisonment. Accused was found guilty U/S 337of I.P.C. convicted and sentenced to undergo Simple imprisonment, with a fine of

		Rs.500/- failing which to undergo one month simple imprisonment. Accused was found guilty U/S 304(A) of I.P.C. convicted and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.5,000/- under Section 255(2) failing which to undergo 3months simple imprisonment.
6.	Whether the order of the trial court is confirmed or modified	: Reversed
7.	Taken on file by the Sessions Court	: 23.07.2024
8.	Date of arguments heard	: 09.04.2026
9.	Date of Order	: 22.04.2026

This Criminal Appeal came on 09.04.2026 for hearing before me in the presence of Thiru.V.Maria Selvaraj, Advocate for the Appellant and of Thiru. S. Soosai Robert, Additional Public Prosecutor for the Respondent, after having heard the arguments of both sides and on perusal of records and having stood over for consideration till this day, this Court delivers the following :

JUDGMENT

This Criminal Appeal is directed against the judgment of conviction and sentence passed by the learned Judicial Magistrate, Nilakottai, in C.C.No.186 of 2014, arising out of Crime No.260 of 2013 on the file of Ammaianayackanur Police Station. By the said judgment, the appellant/accused was convicted for the offences

punishable under Sections 279, 337 and 304-A of the Indian Penal Code and sentenced as stated therein. Aggrieved by the said conviction and sentence, the present appeal has been preferred by the accused, calling in question both the correctness of the findings rendered by the trial Court as well as the propriety of the sentence imposed.

2. Prosecution case in brief is as follows:

The prosecution case, as unfolded through the oral and documentary evidence, is that on 29.10.2013 at about 3:40 p.m., PW1 (Rajeshwari), along with her husband Murugan (since deceased), was travelling on a two-wheeler bearing Registration No. TN-57-AJ-1238 (Honda Two Wheeler). At that point of time, a bus bearing Registration No. TN-60-D-7484, driven by the accused, is alleged to have been driven in a rash and negligent manner and dashed against the said two-wheeler.

3. It is the specific case of the prosecution that the impact of the collision was severe, resulting in fatal injuries to Murugan, who succumbed subsequently, while PW1 sustained bodily injuries including disc prolapse and other associated trauma. The occurrence thus gave rise to registration of offences Sections 279, 337 and 304-A IPC.

4. Upon receipt of the complaint, the law was set in motion. The Investigating Officer proceeded to the scene of occurrence, prepared the Observation Mahazar and Rough Sketch, conducted inquest over the body of the deceased, and arranged for

postmortem examination. The Motor Vehicle Inspector inspected the vehicles involved and submitted reports. Upon completion of investigation, a final report was filed before the Judicial Magistrate.

5. Trial proceedings and evidence:

The learned Judicial Magistrate having taken cognizance, furnished copies of the relied upon documents to the accused under Section 207 Cr.P.C., and framed charges under Sections 279, 337 and 304-A IPC. The accused denied the charges and claimed to be tried.

6. In order to substantiate its case, the prosecution examined PWs 1 to 11 and marked Exhibits P1 to P9. No material objects were produced.

- The documents relied upon by the prosecution are as follows:

Ex.P1 – Statement

Ex.P2 – Observation Mahazar

Ex.P3 – Postmortem Certificate

Ex.P4 – Accident Register

Ex.P5 – First Information Report

Ex.P6 – Rough Sketch

Ex.P7 – Inquest Report

Ex.P8 – Vehicle Inspection Report bearing Reg.No.TN60D7484

Ex.P9 – Vehicle Inspection Report bearing Reg.No.TN57AJ1238

No witnesses were examined nor documents marked on the side of the defence.

7. PW1, the injured eyewitness and wife of the deceased is the primary witness to the occurrence. PW2 was projected as an independent eyewitness. The remaining witnesses were either official witnesses connected with investigation or formal witnesses.

8. The documentary evidence consisted of the complaint, FIR, Observation Mahazar, Rough Sketch, Inquest Report, Postmortem Certificate, Accident Register and Motor Vehicle Inspection Reports.

9. After the prosecution evidence was concluded, the accused was examined under Section 313 Cr.P.C. with respect to the incriminating circumstances appearing against him. The accused denied the same in toto and did not adduce any evidence on his side.

10. Findings of the trial court:

The trial Court, upon appreciation of the oral and documentary evidence, came to the conclusion that the prosecution had established the guilt of the accused beyond reasonable doubt. The Court placed reliance primarily on the testimonies of PW1 and

PW2, treating them as eyewitnesses to the occurrence.

Consequently, the accused was convicted under Sections 279, 337 and 304-A IPC and sentenced to pay fine for the offences under Sections 279 and 337 IPC, and to undergo one year simple imprisonment along with fine for the offence under Section 304-A IPC, with default sentences. The sentences were directed to run concurrently.

11. Grounds of appeal – submissions of the appellant:

The learned counsel for the appellant assailed the judgment of the trial Court by contending that the conviction is unsustainable both on facts and in law. It is submitted that the trial Court failed to appreciate the evidence in its proper perspective and has erroneously relied upon unreliable and inconsistent testimony. The learned counsel would contend that PW1, though projected as an eyewitness, has categorically admitted that she was seated sideways and was not facing the direction of the road at the time of the occurrence, thereby rendering her testimony doubtful insofar as the manner of accident is concerned.

12. It is further contended that there are material contradictions in the evidence of PW1 regarding the identity of the bus involved in the accident, as she has referred to it inconsistently as “Velmani bus” and “Velmurugan bus,” without any satisfactory explanation.

13. With regard to PW2, it is submitted that his presence at the scene is highly doubtful. According to PW2, the accident occurred at about 3:30 p.m., whereas PW1

has stated that it occurred at about 3:40 p.m. This discrepancy, according to the appellant, is not trivial but goes to the root of the matter, as it renders the presence of PW2 at the scene improbable.

14. It is also pointed out that PW2, in cross-examination, has admitted that he was unaware whether the bus was driven in a rash or negligent manner. Therefore, his testimony does not establish the essential ingredients required for conviction under Section 304-A IPC.

15. The learned counsel further contended that both PW1 and PW2 belong to the same village, and there is no independent corroboration from neutral witnesses. The remaining witnesses are only hearsay or formal witnesses, whose evidence does not advance the case of the prosecution.

16. The appellant also highlighted procedural lapses, including delay in forwarding the FIR to the Magistrate and delay in conducting the motor vehicle inspection, which, according to the appellant, creates doubt regarding the genuineness of the prosecution case.

17. It is further argued that non-examination of crucial witnesses such as the Doctor and Motor Vehicle Inspector is fatal to the prosecution. Finally, it is submitted that mere speed of a vehicle does not constitute rashness or negligence, and in the absence of cogent evidence to establish such ingredients, the conviction under Section 304-A IPC cannot be sustained. In support of his contentions, he relief upon

the decision of the Hon'ble High Court of Judicature at Madras in the matter of *Boopathi vs State represented by the Inspector of Police, Mohanur Police Station, Namakkal*, reported in (2025) 2 MLJ (Crl) 177, *Selvamani vs The State rep.by The Inspector of Police, Perambur Police Station, (Crime No.71 of 2007)*, reported in 2022-1-L.W.(Crl).126, *Sudhakar vs State Represented by the Inspector of Police, Panthanallur Police Station, Thanjavur District. (Crime No.68 of 2006)*, reported in 2023-2-L.W.(Crl.)735 and *Saravanan vs State by The Inspector of Police, Valanadu Police Station, Trichy District (Crime No.75 of 2007)*, reported in (2020) 1 MLJ (Crl) 406 LNIND 2019 BMM 2258.

18. Submissions of the prosecution

Per contra, the learned Public Prosecutor supported the judgment of the trial Court, contending that the prosecution has proved its case beyond reasonable doubt.

19. It is submitted that PW1, being an injured witness, is a natural and credible witness, whose presence at the scene cannot be doubted. Her testimony is entitled to greater weight. PW2, an eyewitness, has corroborated the version of PW1 regarding the occurrence.

20. It is further contended that minor discrepancies in the evidence, particularly with regard to timing or description, are bound to occur and do not affect the core of the prosecution case.

21. The learned Public Prosecutor would submit that the trial Court has carefully appreciated the evidence and rightly convicted the accused, and that no interference is warranted in the appellate jurisdiction.

22. Point for Determination:

In the light of the rival submissions, the primary point that arises for consideration in this appeal is:

Whether the prosecution has proved beyond reasonable doubt that the accused drove the vehicle in a rash and negligent manner, thereby causing the accident resulting in the death of Murugan and injuries to PW1, so as to sustain the conviction under Sections 279, 337 and 304-A IPC?

23. Discussion:

Upon a careful re-appreciation of the entire evidence on record while keeping the settled principle that in an appeal against conviction, the appellate Court is duty-bound to independently evaluate the evidence and arrive at its own conclusion, while giving due weight to the findings of the trial Court.

24. At the outset, it is to be noted that the prosecution case rests substantially on the testimonies of PW1, PW2, PW5 and PW9, who have been projected as eyewitnesses to the occurrence. Therefore, the reliability, consistency and evidentiary value of their testimonies assume critical importance.

25. PW1 is the injured witness and the wife of the deceased. Ordinarily, the testimony of an injured witness carries great evidentiary weight, as her presence at the scene of occurrence has not been doubted. However, such testimony must still withstand the test of credibility and consistency. In the present case, a close scrutiny of the deposition of PW1 reveals that she has admitted that at the time of the occurrence, she was seated sideways on the two-wheeler and was facing towards the side of Kammaikarai, and not in the direction of the oncoming traffic. This admission assumes significance, as it raises a serious doubt as to whether PW1 could have actually witnessed the manner in which the bus was driven or the precise manner in which the accident occurred.

26. Further, the PW1 had deposed that there was a turning in the road when the accident took place and that there was a lorry going, even though she deposed that the accident did not take place while her husband attempted to overtake the said lorry, as the said narrative, coupled with her admission that her husband after accident fell on the right side of the tar road and that PW1 fell on the left side of the road, therefore, it cannot be ruled out that the accident took place in the middle of the road, as no evidence was given by the prosecution regarding the width and nature of the nature in which accident took place. Furthermore, the PW1 deposes that they saw the bus 200 meters away and therefore the suggestion of the defense that the accident took place while they overtake the lorry could not be completely ignored as the witness admits the presence of a lorry and the after accident her injured husband admittedly fell on

the right side of the road. The evidence of PW1 thus assumes much significance and goes to the root of the prosecution case as even as per the prosecution version PW2 and PW1 were the only eye witnesses.

27. Turning to the evidence of PW2, who is projected by the prosecution as an independent eyewitness, this Court finds that his testimony does not inspire confidence. According to PW2, the occurrence took place at about 3:30 p.m., whereas PW1 has consistently stated that the accident occurred at about 3:40 p.m. The ten-minute discrepancy, when viewed in isolation, may appear minor; however, when considered in the context of the movement of vehicles and the stated position of PW2, it assumes significance. If PW2 had already crossed the place of occurrence at 3:30 p.m., as per his own version, his presence at 3:40 p.m. at the scene becomes doubtful. Furthermore, PW2, Balasubramanian, in his cross-examination has claimed that he was travelling on a two-wheeler (motorcycle). However, he held admitted during cross examination that in his statement recorded under Section 161(3) Cr.P.C., he informed the police that he had travelled on a bicycle. His testimony could not be relied upon safely to presume guilt or corroborate the version of prosecution.

28. More importantly, PW2 has admitted during cross-examination that he was not aware whether the bus was driven in a rash or negligent manner. This admission strikes at the very root of the prosecution case, as the essential ingredient required to establish an offence under Section 304-A IPC is rashness or negligence on the part of

the accused. In the absence of clear and cogent evidence on this aspect, the conviction cannot be sustained. Furthermore and more importantly, none of the eye witnesses have identified the accused person having driven the bus that met with the accident on that day and in the absence of such identification, the prosecution case suffers from serious lacunae and has to be held to have failed to establish the guilt of the accused beyond reasonable doubt, entitling him to the benefit of doubt.

29. It is also to be noted that both PW1 and PW2 hail from the same village. While this fact alone does not discredit their testimony, in the absence of corroboration from independent witnesses, the Court is required to scrutinize their evidence with greater caution. In the present case, none of the other witnesses examined by the prosecution are eyewitnesses to the occurrence, and their testimonies are either formal or hearsay in nature, which do not materially advance the prosecution case.

30. Another aspect that merits consideration is the delay in forwarding the First Information Report to the jurisdictional Magistrate. The FIR, though stated to have been registered on 29.10.2013, was forwarded to the Court only on 31.10.2013. While delay in itself may not be fatal in every case, the prosecution is required to satisfactorily explain such delay. In the present case, no convincing explanation has been offered, thereby creating a dent in the prosecution version.

31. Further, there is also delay in subjecting the vehicles involved in the accident to inspection by the Motor Vehicle Inspector. Though reports have been marked, the non-examination of the Motor Vehicle Inspector deprives the Court of an opportunity to understand the nature of damage, point of impact, and whether such damage is consistent with the prosecution version.

32. It is well settled that in order to sustain a conviction under Section 304-A IPC, the prosecution must prove that the accused was driving the vehicle in a manner which was rash or negligent, and that such act was the direct and proximate cause of the death. Mere occurrence of an accident or the fact that the vehicle was driven at a high speed is not sufficient to attract criminal liability as held in catena of decisions by the Hon'ble Apex Court and our Hon'ble High Court. Rashness and negligence must be established as a matter of fact, through reliable evidence.

33. In the case on hand, there is no clear, cogent and convincing evidence to demonstrate that the accused drove the bus in a rash or negligent manner as already observed supra. The evidence of PW1 is doubtful on the aspect of actual witnessing the occurrence, and the evidence of PW2 does not establish rashness or negligence and does not inspire confidence for the reasons observed above. The remaining evidence is insufficient to fill this gap.

34. In criminal jurisprudence as is trite law, the burden lies squarely on the prosecution to prove its case beyond reasonable doubt and if two views are possible

on the evidence on record, the one favorable to the accused ought to be adopted. In the present case, the cumulative effect of the inconsistencies, contradictions, lack of corroboration, and procedural lapses creates a reasonable doubt in the mind of this Court regarding the prosecution case.

35. In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has failed to establish beyond reasonable doubt that the accused drove the vehicle in a rash and negligent manner so as to cause the accident resulting in the death of Murugan and injuries to PW1 and thus finding of the learned trial judge is to be held as unsustainable.

Accordingly, the conviction and sentence imposed on the appellant/accused by the learned Judicial Magistrate, Nilakottai, in C.C. No.186 of 2014 under Sections 279, 337 and 304-A IPC are liable to be set aside.

36. Result:

In the result, the Criminal Appeal is allowed.

(I) The conviction and sentence imposed on the appellant/accused by the learned Judicial Magistrate, Nilakottai, in C.C.No.186 of 2014 dated 25.06.2024, for the offences under Sections 279, 337 and 304-A IPC, are hereby set aside and the appellant/accused is acquitted of all the charges.

(ii) The fine amount, if any, paid by the appellant/accused shall be refunded forthwith.

(iii) The bail bond, if any executed by the appellant/accused, shall stand cancelled.

Dictated to the stenographer, transcribed and typed by her, corrected by me and pronounced in Open Court on this the 22nd day of April, 2026.

**Additional District & Sessions Judge,
Dindigul.**