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IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE, THENI

Present: Thiru. A. Saravanakumar, B.A.,B.L.,
Principal Sessions Judge, Theni

Monday, this the 29th day of June, 2026

Criminal Appeal No.60/2025
(C.N.R. No.TNTH01-001353-2025)

Name of the Trial Court	:	Judicial Magistrate, Uthamapalayam.
Trial Court Case No.	:	C.C. No.200/2016
Criminal Appeal No.	:	C.A. No.60/2025
Name of the Appellant/Accused	:	Leo Richard (aged 54 years) S/o Mariyaraj Tathupatti, Dindigul District.
Name of the Respondent/Complainant	:	State rep. by the Deputy Superintendent of Police, Uthamapalayam Police Station, Crime No.209/2016.
Order of the trial Court	:	The trial Court had convicted the accused for the offences punishable under Sections 279 and 304 (A) (4 counts) of the Indian Penal Code. For the offence under Section 279 of IPC, the accused was sentenced to undergo simple imprisonment for one month and to pay a fine of Rs.1,000/-. For the offence under Section 304 (A) of IPC (4 counts), the accused was



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	sentenced to undergo simple imprisonment for Six months on each count, aggregating to two years and to pay a fine of Rs.5,000/-. In total, a fine of Rs.6,000/- was imposed. In default of payment of fine, to undergo simple imprisonment for one month.
Whether the trial court order : confirmed or modified or set aside.	In the result, (i) The appeal is allowed. (ii) The judgment of conviction passed by the learned Judicial Magistrate, Uthamapalayam in C.C. No.200/2016 dated 09.04.2025 is here by set-aside (iii) The accused is not found guilty for the offence under Sections 279 and 304 (A) IPC (4 counts) and acquitted from the said charges. The bail bond shall stands cancelled. (iv) No property has been produced in this case.

This Criminal Appeal was coming up for final hearing on 17.06.2026, in the presence of Thiru. C. Logamani, Advocate for the Appellant/Accused and Thiru. P. Baskaran, Public Prosecutor for the District on



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behalf of the State/Respondent and upon hearing both side arguments and perusing the case records, the case having stood over for consideration till this date, this court delivered the following:

J U D G M E N T

The appellant, Leo Richard, suffered an order of conviction and sentence from the learned Judicial Magistrate, Uthamapalayam in C.C. No.200 of 2016 for the offences punishable under Sections 279 and 304 (A) IPC. For the offence under Section 279 IPC, he was sentenced to undergo simple imprisonment for one month and to pay a fine of Rs.1,000/-. For the offence under Section 304 (A) IPC (4 counts), he was sentenced to undergo simple imprisonment for six months on each count, aggregating to two years, and to pay a fine of Rs.5,000/-. Thus, a total fine of Rs.6,000/- was imposed, with a default sentence of simple imprisonment for one month. Aggrieved by and dissatisfied with the said order of conviction and sentence, the present appeal has been preferred.

2. The Deputy Superintendent of Police, Uthamapalyam Sub Division has filed a charge sheet stating that on 11.04.2016 at about 20.40 hours witness No.1 Harihara Suthan @ Suthakar was driving a TVS Star City Two-wheeler bearing Reg. No.TN 60 T 7665 wherein one Krishnan was sitting as pillion riders. When the said Harihara Suthan @ Suthakar was proceeding from North-south



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direction keeping the left margin of the road located in Uthamapalaym to Cumbum Main road and was reaching in front of Manthaiyamman Kovil, the accused Leo Richard was driving a TNSTC Bus bearing Reg. No.TN 58 N 1971 in a rash and negligent manner and dashed against Harihara Suthan and thereby caused multiple injuries to him. In the course of the said transaction the accused also hit against the passersby namely Harihara Suthan @ Suthakar, Sekar @ Gunasekar, Thangaraj and Krishnan and thereby caused multiple injuries all over the body and consequently all the above persons died. Thus the accused as committed offences under Sections 279, 304 (A) IPC (4 counts).

3. On the case being taken cognizance by the learned Judicial Magistrate, Uthamapalayam, as C.C. No.200 of 2016, was pleased to issue summons to the accused person for his appearance and on his appearance, the free copies of the police records as contemplated under Section 207 of Cr.P.C. were furnished. Thereafter since there was a sufficient ground to proceed against the accused under Sections 279, 304 (A) IPC (4 counts) he was questioned under Section 251 of Cr.P.C. The accused has not pleaded guilty and informed that he has defence to make. Subsequently the trial Court has ordered for trial.



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4. In order to bring home the offences charged against the accused person on the side of the prosecution, PW1 to PW17 were examined before the learned Judicial Magistrate. Ex.P1 to Ex.P18 were marked.

The case of the prosecution, as elicited from the prosecution witnesses, in brief is as follows:-

5. PW1 Murugan was residing in Hanumanthampatti. He owned a petty shop. PW2 Nithyananthan was also residing in Hanumanthampatti who was working as a Driver. PW3 Rajkumar was also a resident of Hanumanthampatti he did his own business. On 11.04.2016 at about 08.40 p.m., PW1 Murugan and his brother-in-law. PW2 Nithyananthan were going in a two-wheeler. PW1's brother Harihara Suthan and one Krishnan was also coming in another two-wheeler. When all of them were reaching in-front of Manthaiamman Kovil located in Hanumanthampatti to Cumbum Road, in the opposite direction a TNSTC Bus TN 58 N 1971 was driven in a speedy and negligent manner. The said bus dashed against Harihara Suthan and Krishnan. Subsequently the bus was out of control and dashed against two persons. On the fateful day the accused Leo Richard drove the bus. Of the persons injured Sekar died at this spot itself. Three other persons were sustained injuries and became unconscious. Immediately after the occurrence PW1 took the above 3 persons to the



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Uthamapalayam Government Hospital. The doctors admitted them in the hospital and declared that Harihara Suthan and Krishan were died. The another injured person Thangaraj was taken to G.Vilakku Government Hospital for further treatment. Inspite of treatment given she died at the hospital. PW1 went to the Uthamapalayam Police Station and gave Ex.P1 Complaint.

6. PW2 Nithyananthan also saw the occurrence and went to the hospital along with PW1 and came to the Police Station. His signature in the complaint has been marked as Ex.P2. After the accident PW3 Rajkumar helped PW1 for taking injured persons to hospital. PW4 Murugesan also heard about the occurrence. PW5 Eswaran reached the occurrence spot after happening of the accident and helped PW1 for taking the injured person to hospital. PW9 Jeyakumar, PW10 Chandran, PW11 Muthusamy, though cited as occurrence witnesses, turned hostile.

7. PW16 Pitchaimani was working as Sub-Inspector of Police in Uthamapalayam Police Station at the time of occurrence. On 11.04.2016 at about 23.03 hours PW1 appeared before him and gave Ex.P1 complaint. Upon receiving the complaint PW16 registered a case in Cr.No.209/2016 and Sections 279, 337 and 304 IPC. The printed F.I.R. has been marked as Ex.P7. After



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registering the F.I.R. he placed the copy of the F.I.R. for investigation to the Deputy Superintendent of Police.

8. PW17 Annamalai, Deputy Superintendent of Police took up the case for investigation and proceeded to the occurrence spot on 12.04.2016 at 01.30 a.m. He prepared an Observation Mahazar and Rough Sketch in the presence of witnesses Rajkumar (PW3) and Balasubramanian. The Observation Mahazar has been marked as Ex.P8 and Rough Sketch has been marked as Ex.P9. The signature of Rajkumar has been marked as Ex.P3.

9. PW7 further received intimation from the hospital that Harihara Suthan, Krishnan, Sekar @ Gunasekar were died in the hospital. Therefore, PW17 has altered to 279 IPC to 304 (A) IPC (4 counts). The alteration Report has been marked as Ex.P18. He further appointed PW14 Ramalakshmi, Inspector of Police to conduct post-mortem upon the dead body of deceased Krishnan. PW14 Ramalakshmi conducted inquest on 12.4.2016 between 8.2.10 a.m., in the presence of Panchyathars. The inquest report has been marked as Ex. P4.

10. Further PW17 Deputy Superintendent of Police appointed, PW16 Pitchaimani to conduct post-mortem upon the dead body of deceased Sekar @ Gunasekar. PW16 conducted the inquest on 12.04.2016 between 8 to 10 a.m., in the presence of Panchayathars. The Inquest Report has been marked as Ex.P7.



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PW17 also conducted inquest upon the dead body of deceased Harihara Suthan @ Suthakar in the presence of Panchayathars between 8 a.m., to 10. a.m., on 12.04.2016. The Inquest Report has been marked as Ex.P10. He further examined witnesses Murugan (PW1), Nithyananthan (PW2), Rajkumar (PW3), Murugesan (PW4), Jeyakumar (PW9), Chandran (PW10), Eswaran (PW5) and Mokkaichamy (PW11) and recorded their statements. On the same day between 12 to 2 p.m., PW17 conducted post-mortem upon the dead body of Thangaraj in the presence of Panchayatharas. The Inquest Report has been marked as Ex.P12. He further sent requisition for conducting postmortem through Head Constable, Seeman. He further examined the witnesses Suthan, Kalaivanan, Rajkumar (PW6), Balasubramani and recorded their statements.

11. Further PW17 Deputy Superintendent of Police, on 13.4.2016 at 10.00 a.m., arrested the accused at by-pass road, Uthamaplayam and arranged for his remand. In the meanwhile PW17 sent the accused for the eye check up for the Government Hospital, Theni. After the eye test the accused was brought to the learned Judicial Magistrate for remand. On 14.4.2016 he sent the requisition for conducting postmortem. PW17 further examined witnesses Manikandan (PW7), Chandrasekar, Seeman, Ramamoorthy (PW8), Ramalakshmi (PW14) and Pitchaimani (PW16) and recorded their statements. On 17.4.2016 he further



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examined witnesses Sivakumar (PW12) and Subbu (PW13) and recorded their statements. On 3.5.2016 he sent the bus bearing Reg. No.TN 58 N 1971 and Two-wheeler TN 60 D 7565 for the inspection of Motor Vehicle Inspector. After the inspection the Motor Vehicle Inspector was of the opinion that accident did not happen due to any mechanical defect. The Motor Vehicle Report are marked as Ex.P12 and Ex.P13. In the meanwhile Doctors Balamurugan, Priya were completed postmortem upon the dead body of the deceased. The post mortem reports are marked as Ex.P12 to Ex.P15. PW17 further examined Ophthalmologist Suryakumar and recorded his statement. His medical report has been marked as Ex.P17. Completing his investigation he laid the charge sheet.

12. Findings of the trial court:-

The trial Court upon considering the oral and documentary evidence of the respective sides has given a specific finding that the accused had driven the bus in a rash and negligent manner and in so doing he caused the death of 4 deceased persons. Having come to such findings it has convicted the accused under Sections 279, 304 (A) IPC (4 counts) and passed suitable sentence of imprisonment and fine as detailed in the judgment. Aggrieved over the judgment



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of conviction passed by the trial court the accused has preferred the present appeal.

13. The points raised in the grounds of appeal:-

The Trial Court failed to properly appreciate the evidence on record and the probabilities of the case. According to the appellant, the conviction has been based mainly on the testimony of related witnesses, namely P.W.1 to 3, while the independent witnesses have not supported the prosecution case. It is further contended that the Trial Court overlooked the discrepancies relating to the lodging and authorship of the complaint, thereby casting doubt on the very genesis of the prosecution case. The appellant also assails the findings of the Trial Court on the ground that the tyre marks found in the rough sketch are inconsistent with the prosecution version regarding the manner of occurrence and that the prosecution failed to explain whether the said tyre marks pertained to the bus or the two-wheeler involved in the accident. According to the appellant, the prosecution further suppressed the existence of a barricade at the place of occurrence, though the same was spoken to by one of the occurrence witnesses, and the said barricade was not reflected either in the rough sketch or in the observation mahazar. It is therefore contended that the suppression of such material facts has not been properly considered by the Trial Court. The



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appellant would further contend that the evidence of the occurrence witnesses does not satisfactorily establish that the bus driven by the appellant had crossed to the wrong side of the road and caused the accident. It is also argued that the Trial Court failed to consider the relevance of the deceased not possessing a valid driving licence and ignored various omissions and inconsistencies in the prosecution evidence. On the above grounds, it is contended that the prosecution has failed to establish the guilt of the appellant beyond reasonable doubt and that the appellant is entitled to the benefit of doubt and consequent acquittal.

14. Point for consideration:-

Upon considering the submissions made by the learned counsels for the appellant and appeal respondent, this appellant court has framed the following points for consideration:

(i) Whether the finding of the trial court that the accused/appellant has driven the bus bearing Reg. No.TN 58 N 1971 in a rash and negligent manner and caused the death of the 4 deceased persons is sustainable both on law and facts?

(ii) Whether the judgment of conviction passed by the learned Judicial Magistrate, Uthamapalayam in C.C. No. 200/2016 is sustainable?



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(iii) Whether the appeal is to be allowed?

Answers to points No. 1 and 2:-

15. The Appellant is the accused in C.C. No.200/2016. The appeal respondent is the prosecuting agency. For the purpose of discussion and easy understanding the parties are described in their litigative status in the Calendar case. Therefore, the appellant will hereinafter be called as accused and the appeal respondent will hereinafter be called as prosecution.

16. The challenge in this appeal is whether the judgment of conviction passed by the learned trial Court is sustainable both on law and facts. The sum and substance of the prosecution case is that on 11.4.2016 at 20.40 hours in front of Manthaiamman Kovil located in Uthamapalayam - Cumbum, Road, the accused drove a TNSTC Bus bearing Reg. No.TN 58 N 1971 in a rash and negligent manner and dashed against Sekar @ Gunasekar, Thangaraj, Harihara Suthan @ Suthakar and Krishnan and caused their death by making multiple bodily injuries. Thus the accused has been charged under Sections 279, 304 (A) IPC (4 counts).

17. In order to substantiate its case the prosecution has examined as 17 witnesses and also marked Ex. P1 to Ex.P18.



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18. Of the witnesses examined, PW1 Murugan is the de-facto complainant to speaks about the occurrence. PW2 Nithyananthan, PW3 Rajkumar, PW4 Murugesan, PW5 Eswaran, PW6 Rajkumar, PW7 Manikandan, PW8, PW10 Chandran, PW11 Mokkaismy, PW12 Sivakumar, PW13 Subbu are cited as eye-witnesses. PW8 Ramamoorthy is the Head Constable who assisted for conducting post-mortem. PW14 is the Inspector of Police who was conducted inquest upon the dead body of deceased Krishnan. PW15 is the Doctor who was conducted eye test for the accused. PW16 Pitchaimani is the Inspector of Police who has registered F.I.R and conducted inquest upon the dead body of the deceased Sekar @ Gunasekar. PW17 Annamalai is the Inspector of Police who has investigated the case.

19. Placing reliance upon the oral testimonies of the said witnesses the learned Public Prosecutor contents that the prosecution has clearly established the date, time and place of occurrence and also presence of the accused in the scene of crime. He further submits that the prosecution witnesses have vividly explained the manner of occurrence which would fortify the case of the prosecution that only due to the rash and negligent driving of the accused the occurrence has happened. He further submits that the trial court has properly



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understood the facts and law and slapped condign punishment to the accused and therefore the judgment of conviction may be confirmed.

20. The learned counsel appearing for the accused submits that the trial court has failed to consider the most of the eye witnesses turned hostile. They have not properly spoken about the occurrence and identified the accused at the time of occurrence. It is his submission that even though few of the witnesses spoken about the occurrence their evidence is not sufficient to prove the guilt of the accused. The learned counsel for the appearing for the accused further contents that the trial court has completely misdirected itself and gave improper finding as to the guilt of the accused. Therefore he vehemently contents that the accused may be acquitted and the judgment of the conviction passed by the learned trial court may set-aside.

21. This court has bestowed its special attention to the submissions of the respective sides. As stated supra the accused has been charged under Section 279 and 304(A) IPC (4 counts). While so it is the duty of the prosecution to prove that the accused has caused death of the deceased and also his act of rash and negligent driving are the direct cause for the accident. In this regard the Hon'ble Supreme Court in the case of ***Mohamed Rangawlla -Vs- Maharashtra State A.I.R. 1965 S.C. 1616*** has held that the death must be direct result of the



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rash or negligent of the accused and the act must be sufficient cause without interference of another's negligent. It must be *causa-causans* and it is not enough that it must have been the *causa sine qua non*. Moreover in ***Syed Akbar v. State of Karnataka 1980 (1) MLJ Crl. 265*** it has been observed that it must be proved that the rash and negligent of the accused was the proximate cause of the death. There must be a direct nexus for a death of the person and the rash or negligent act of the accused. Keeping the above judgments in mind this court has to decide whether the accused has caused the death of the deceased due to his rash and negligent driving.

22. PW1 Murugan is the complainant. His complaint has been marked as Ex.P1. He has clearly stated that Sekar @ Gunasekar, Thangaraj, Hariharasuthan @ Suthakar and Krishnan were died in the accident. PW16 Pitchaimani Inspector of Police had conducted postmortem upon the dead body of the deceased Sekar @ Gunasekar. The death Certificate has been marked as Ex.P7. PW17 Investigation Officer Annamalai has also deposed that he has conducted inquest upon the dead body of the deceased Thangaraj and also Hariharasuthan @ Suthakar. The inquest report are marked as Ex.P10 to Ex.P13. The doctors have also conducted post-mortem upon the dead body of the deceased. Their post-mortem certificates are marked as Ex. P14 to E.P17. A thorough reading of



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the post mortem certificates would go to show that the deceased persons died due to shock and hemorrhage and also due to injuries on the vital parts of the body. A further reading of these witnesses and the documents would go to show that the all the above persons died due to road accident. Therefore, this appellate court safely comes to the conclusion that the deceased had died due to a road accident.

23. Now this appellant court has to see whether the death of the deceased was caused due to the rash and negligent driving of the deceased. In order to prove the rash and negligence of the deceased the prosecution has examined PW 1 to PW13. Among the above witnesses PW9 Jeyakumar has not stated anything about the occurrence. Therefore, the prosecution has declared him as hostile witness. PW10 Chandran has also completely denied of having seen the occurrence. Therefore, he has been declared as hostile. PW 11 Mokkaismy has not supported the case of the prosecution. While so the prosecution has declared him as a hostile witness. Therefore, their evidence would not lend any support to the prosecution case. Similarly, PW7 Manikandan is a Special Inspector of Police who has come to the occurrence spot after the incident and handed over dead body to the doctor. Therefore, he is also not a direct eye witness. His evidence is of no avail to the prosecution case. PW5 Eswaran has deposed in his



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chief examination that on 12.4.2016 at about 8.45 p.m., he was standing in front of a Tea shop of located in Manthaiamman Kovil. He saw that Sekar @ Gunasekar, Thangaraj and two other in-know persons were sustained injuries due to a bike accident. However, he has clearly admitted that he did not know who drove the vehicle. In the cross- examination he has admitted that he was not at all examined by the police. Since, PW 5 did not identify the accused in the scene of crime his evidence is not sufficient to bring home the accused to the offences. PW4 Murugesan in his chief examination has stated that on 11.4.2016 at about 8.30 p.m., he was standing near the tea-shop located near Manthaiamman Temple. He further stated that 4 persons have sustained injuries. But he has stated as follows in his cross examination.

"வெளியில் நடைபயிற்சி செய்து கொண்டு இருந்தபோதுதான் விபத்து நடந்தது. சத்தம்கேட்டுதான் சென்றேன் என்றால் சரிதான். விபத்து நடக்கும்போது நான் பார்க்கவில்லை என்றால் சரிதான்."

24. A reading of his cross examination would make it very clear that he has not directly seen the occurrence. He came to the occurrence spot only after hearing the noise and it was over. Therefore, it is held that he could not have seen the rash and negligent driving of the accused. PW3 Rajkumar in his chief examination stated that only two persons were sustained injuries and he sent



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them to Government Hospital. He has not at all stated about the rash and negligent driving of the deceased. Therefore, it is noticed that he has also not connected the accused with the commission of offences.

25. While so PW1 Murugan and PW2 Nithyananthan evidence assumed importance. The chief examination of PW1 Murugan would run as follows,

“ ... நான் தற்போது அனுமந்தப்பட்டியில் குடியிருக்கிறேன். சொந்தமான கடை வைத்திருக்கிறேன். கடந்த 11.04.2016-ம் தேதி இரவு சுமார் 8.40 மணியளவில் நானும், எனது மச்சினன், ஒரு பைக்கிலும், எனது தம்பி ஹரிஹரசுதனும், மச்சினன் கிருஷ்ணன் ஒரு பைக்கிலும் அனுமந்தனப்பட்டியிலிருந்து கம்பம் நோக்கி சென்றுகொண்டிருந்தபோது புதுப்பட்டியில் உள்ள மந்தையம்மன்கோவில் அருகில் முன்னும் பின்னுமாக சென்று கொண்டிருந்தபோது எதிர் திசையில் இருந்து TN 58 N 1971 என்ற பதிவு எண் கொண்ட அரசுப் பேருந்து ஒன்று வேகமாகவும், அஜாக்கிரதையாகவும் வந்தது. மேற்படி பேருந்து எனது தம்பி மற்றும் மச்சினன் வந்திரு சக்கர வாகனத்தின்மீது மோதிவிட்டது. மேலும் அதில் கட்டுப்பாட்டை இழந்த மேற்படி பேருந்தை ஆஜர் எதிரி லியோதான் ஓட்டி வந்தார். நாங்கள் சென்று பார்த்தபோது சேகர் என்பவர் சம்பவ இடத்திலேயே இறந்துவிட்டார். விபத்தில் அடிபட்ட மற்ற மூன்றுபேரும் மயக்க நிலையில் இருந்தார்கள். அவர்களை உத்தமபாளையம் அரசு மருத்துவமனைக்கு சிகிச்சைக்கு கொண்டுசென்றோம். அங்கே பரிசோதித்த மருத்துவர்கள் எனது தம்பி ஹரிஹரசுதன் மற்றும் எனது மச்சியன் கிருஷ்ணன் ஆகியோர் இறந்துவிட்டதாக சொன்னார்கள். மற்றொருவரான தங்கராஜை மேல் சிகிச்சைக்காக க.விலக்கு மருத்துவமனைக்கு கூட்டிச்சென்றார்கள். பிறகுஅவரும்



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சிகிச்சை பலனில்லாமல் அங்கே இறந்துவிட்டதாக தெரிந்துகொண்டேன். நடந்த சம்பவம் பற்றி உத்தமபாளையம் காவல்நிலையத்தில் நான் புகார் கொடுத்தேன். என்னிடம் காட்டப்படும் புகார் மனு நான் கொடுத்ததுதான். அதில் உள்ள கையெழுத்து என்னுடையதுதான். புகார் மனுவில் எனது மச்சினன் நித்தியானந்தனும் சாட்சி கையெழுத்து செய்துள்ளார். புகார் மனு அ.சா.ஆ.1 ஆகும். போலீசார் என்னை விசாரித்தார்கள்”.

26. A through analysis of his evidence would go to show that he has clearly stated above the date and time of occurrence. He has further asserted that himself and his brother-in-law were riding a two-wheeler and his brother Harihara Suthan and Krishnan were riding another two-wheeler. He has also asserted that while the two wheeler were reaching near Manthaiamman Kovil a TNSTC Bus bearing Reg. No.TN 58 N 1971 dashed against Harihara Suthan, Krishnan, Thangaraj and Sekar @ Gunasekar. He has clearly stated that Krishnan died at the spot itself and others died subsequently at the hospital. From the his evidence there is no iota of doubt that all the 4 persons were died due to the accident.

27. What is pertinent to be noted here its that PW1 has stated that the driver of the bus drove the same in a speedy manner. He has not spoken that the driver driven the vehicle in a rash manner. Now the point to be considered is whether



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the accused can be convicted under section 304 (A) IPC for speed driving which caused the accident. The Hon'ble High Court Madras in case reported in 2001 MLJ Crl.2852 has held that mere driving vehicle in a high speed alone is not sufficient to bring home the offence under section 304 (A) IPC. Hence, it is clear that mere speed driving is not enough to convict the accused. It must be established there must be rash or negligence on the part of the accused. Needless to say PW1 did not speak about rashness. At the same time in his chief examination he has stated about negligence. However, the prosecution has not explained what type of negligence the accused has committed. Therefore even though PW1 has spoken about negligence on the part of the accused, the nature of the negligence is not established.

28. Reverting back to the evidence of PW2 Nithyananthan, in his chief examination he has stated as follows,.

“... நான் தற்போது அனுமந்தப்பட்டியில் குடியிருந்து டிரைவராக வேலை செய்து வருகிறேன். கடந்த 11.04.2016-ம் தேதி இரவு சுமார் 8.40 மணியளவில் நானும், முருகனும் ஒரு பைக்கிலும், ஹரிஹரசுதன் என்ற சுதாகரும், கிருஷ்ணன் ஆகியோர் ஒரு பைக்கிலும் அனுமந்தனப்பட்டியிலிருந்து கம்பம் நோக்கி சென்றுகொண்டிருந்தபோது புதுப்பட்டியில் உள்ள மந்தையம்மன்கோவில் அருகில் முன்னும் பின்னுமாக சென்று கொண்டிருந்தபோது எதிர் திசையில் இருந்து TN 58 N 1971 என்ற பதிவு எண் கொண்ட



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அரசுப் பேருந்து ஒன்று வேகமாகவும், அஜாக்கிரதையாகவும் வந்தது. மேற்படி பேருந்து சுதாகரும், கிருஷ்ணனும் வந்த இரு சக்கர வாகனத்தின்மீது மோதிவிட்டது. மேற்படி பேருந்தை ஆஜர் எதிரி லியோதான் ஓட்டி வந்தார். நாங்கள் சென்று பார்த்தபோது சேகர் என்பவர் சம்பவ இடத்திலேயே இறந்துவிட்டார். விபத்தில் அடிபட்ட மற்ற மூன்றுபேரும் மயக்க நிலையில் இருந்தார்கள். அவர்களை உத்தமபாளையம் அரசு மருத்துவமனைக்கு சிகிச்சைக்கு கொண்டுசென்றோம். அங்கே பரிசோதித்த மருத்துவர்கள் சுதாகரும், கிருஷ்ணனும் இறந்துவிட்டதாக சொன்னார்கள். மற்றொருவரான தங்கராஜை மேல் சிகிச்சைக்காக க.விலக்கு மருத்துவமனைக்கு கூட்டிச்சென்றார்கள். பிறகு அவரும் சிகிச்சை பலனில்லாமல் அங்கே இறந்துவிட்டதாக தெரிந்துகொண்டேன். நடந்த சம்பவம் பற்றி உத்தமபாளையம் காவல்நிலையத்தில் முருகன் புகார் கொடுத்தார். அதில் நான் சாட்சி கையெழுத்து செய்தேன். என்னிடம் காட்டப்படும் புகார் மனுவில் உள்ள சாட்சி கையெழுத்து என்னுடையதுதான். அது அ.சா.ஆ.1 ஆகும். போலீசார் என்னை விசாரித்தார்கள்”.

29. A meticulous examination of his evidence would also show that he has spoken about the date, time and place of occurrence. He has also asserted that at the time of occurrence himself and Murugan were going in a two-wheeler. Harihara Suthan and Krishnan were going in a another vehicle and they were reaching near Manthaiamman Kovil, a bus bearing Reg. No.TN 58 N 1971 was driven by its driven in a rash and negligent manner and dashed against the deceased persons. He has further admitted that he went to the police station for



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lodging a complaint. His signature in the complaint has been marked as Ex.P2. Though he has spoken about the occurrence in the chief examination there are certain contradiction in his cross examination.

30. PW1 states that there was no barricade in the place of occurrence. PW2 admits that there was a barricade. If the barricade was available in the place of occurrence there is no possibility for the accused to drive the vehicle in a rash manner. Moreover in the cross-examination PW2 admitted that the occurrence happened due to the negligence of Sekar @ Gunasekar and Hariharasuthan @ Suthakar while they attempted to cross wine shop road. The relevant portion of his cross examination run as follows,

“... சேகர், சுதாகர் ஒயின்ஷாப் சென்று சாலையில் கவனக்குறைவாக கடக்கும்போது விபத்து ஏற்பட்டது என்றால் சரிதான்”.

31. Therefore, as per the version of PW2 due to the negligence of Sekar and Suthakar the occurrence has happened. Once the evidence of PW1 and PW2 is considered both the witnesses gave given different versions of the accident. It is further seen that PW12 Sivakumar was the conductor of the TNSTC Bus. He has been examined by the prosecution. He is not a witnesses produced by the defence. Once his evidence is considered he gives a different version of the occurrence. PW12 in his chief examination has stated as follows.



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“... நான் தற்போது திண்டுக்கல் அலகு 3-ல் நடத்துநராக பணிபுரிந்து வருகிறேன். கடந்த 11.04.2016-ம் தேதி TN 58 N 1971 என்ற பேருந்தில் நான் நடத்துநராகவும், டிரைவர் லியோ ரிச்சர்ட் அவர்களும் கூடலூர் நோக்கி அனுமந்தப்பட்டி பேரிக்கார்டை தாண்டி சிறிது தூரம் சென்று கொண்டிருந்தபோது எதிர் திசையில் இரு சக்கர வாகனம் வேகமாக வந்து நடந்து சென்றவர்கள் மீது மோதி எங்கள் பேருந்து முன் பக்கத்தில் இரு சக்கர வாகனம் வந்து மோதியதில் பேருந்துமுன் பக்க கண்ணாடி உடைந்துவிட்டது. அதன்பிறகுதான் விபத்து தெரியும். இறங்கி பார்த்தபோது இருசக்கர வாகனத்தில் இரண்டு நபர்கள் வந்தவர்களுக்கு இருவர் இறந்துவிட்டார்கள். நடந்து வந்த இரண்டு நபர்களும் இறந்துவிட்டார்கள். நான் பாளையம் காவல்நிலையத்திற்கு விபத்து குறித்து தகவல் சொன்னேன். போலீசார் என்னை விசாரித்தார்கள்”.

A meticulous consideration of his evidence would reveal that it is the two-wheeler who hit the bus and thereby occurrence happened.

32. In this context the learned counsel for the accused submits that when two views are possible a view which is favorable to the accused must be preferred. In order to canvas his point he has relied upon the Judgment of Hon'ble Supreme Court pronounced in the case of *Virendra – Vs- State of U.P. (Crl.A.No. 462/2018 dated 11.07.2022)*. Therefore this court is of the view that as rightly pointed out by the learned counsel for the accused, PW1 and PW2 give two different versions about the manner of accident. The above



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contradictions would also create serious dent upon the prosecution's case. Therefore this appellate court is of the view that the prosecution has miserably failed to prove its case that only due to the rash or negligent driving of accused the occurrence has happened. In the absence of proving the necessary ingredient of Section 304(A) IPC, it is not safe to convict the accused.

33. Coming to the investigation part, PW17 has taken up the case for investigation and proceeded to the occurrence spot and prepared Ex.P8 Observation Mahazar and Ex.P6 Rough sketch. He has examined the witnesses. He has also conducted inquest and inquest report have been marked as Ex.P4, Ex.P7, Ex.P11. He has further arranged to conduct post mortem upon the dead bodies. The post mortem certificate are marked as Ex.P4, Ex.P14 to Ex.P17. He has also sent the bus for inspection of the Motor Vehicle Inspector. The Motor Vehicle Inspector has given Motor Vehicle Reports in Ex.P12 and Ex.P13. As per the report the accident did not due happen to any mechanical defects. This appellant court does not find any irregularity or even illegality in the investigation. However simply because the investigation done in a proper manner, that will not sufficient to bring home the accused under sections 279 and 304 (A) IPC. For the above said reasons this appellant court does not find the accused guilty under the above sections.



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34. This court has perused the judgment of conviction passed by the learned Judicial Magistrate, Uthamapalayam. Upon its perusal it is noticed that the learned trial court has not properly appreciated the oral testimonies of the witnesses and appreciated the facts and also the applied correct position of law involved in this case. Therefore, this appellate court is of the view that the reasoning and findings given by the trial court are to be interfered and the judgment is to be set-aside.

35. In this backdrops, this court holds that the prosecution has failed to prove that the death of the deceased were taken place due to the rash or negligence of the driving of the accused. Accordingly, the 1st point is answered. The judgment of conviction passed by the learned Judicial Magistrate, Uthamapalayam is not sustainable both on law on facts. Accordingly, the 2nd point is answered.

Answer to Point No.3:-

36. While answering to the 1st and 2nd points, this court has come to a categorical finding that the judgment of conviction passed against the accused is not sustainable both on law and facts. While so the appeal is to be allowed. Accordingly, 3rd point is answered.



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In the result,

(i) The appeal is allowed.

(ii) The judgment of conviction passed by the learned Judicial Magistrate, Uthamapalayam in C.C. No.200/2016 dated 09.04.2025 is here by set-aside.

(iii) The accused is not found guilty for the offence under Sections 279 and 304 (A) IPC (4 counts) and acquitted from the said charges under Section 251 of Cr.P.C. The bail bond shall stands cancelled.

(iv) No property has been produced in this case.

Dictated to the steno-typist, directly typed by her in computer, corrected and pronounced by me in the open court, this the 29th day of June, 2026.

**Principal Sessions Judge,
Theni.**

Appellant side witness and documents:-

-Nil-

Respondent side witness and documents:-

-Nil-

**Principal Sessions Judge,
Theni.**

Copy to:

The Judicial Magistrate,
Uthamapalayam



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27

Criminal Appeal No.60/2025

Principal Sessions Court,
Theni
Fair/Draft Judgement in
C.A. No.60/2025
Dated : 29.06.2026.

29.06.2026

Principal Sessions Judge, Theni