

In the Court of Judicial Magistrate No.III, Thoothukudi.

Present: Thiru. M. VIJAYRAJKUMAR, B.A., B.L., (Hons),
Judicial Magistrate No. III,
Thoothukudi.

திருவள்ளூர் ஆண்டு 2056 தமிழ் ஸ்ரீ விசுவாச ஆண்டு ஆவணி மாதம் 24-ஆம் நாள் செவ்வாய்கிழமை

Tuesday, the 09th day of September 2025

CALENDAR CASE No. 1033/2023

(Cr. No.49/2022, Pudukottai P. S.)

(CNR No: **TNTT02- 014420-2022**)

This case was taken on file by this Court on 03.09.2022 and it is coming up for final hearing on 26.08.2025 before me in the presence of Assistant Public Prosecutor Grade-II for complainant and Thiru. R. Santhanaselvam, B.A.,B.L., the learned counsel for accused and upon perusal of records and on hearing both the sides and having stood over till this day for consideration, this Court delivered the following:

JUDGMENT

Complainant	Banupriya
Represented Through	The Inspector of Police, Pudukottai Police Station.
Represented by	Asst. Public Prosecutor Grade II
Accused	Arikrishnan, S/o. Vellaisamy
Represented by	Thiru. R. Santhanaselvam, B.A.,B.L.,

Date of offence	06.02.2022
Date of F. I. R	06.02.2022
Date of Charge Sheet	30.05.2022
Date of Framing of Charges	04.11.2024
Date of commencement of evidence	09.12.2024
Date on which Judgment is reserved	26.08.2025
Date of Judgment	09.09.2025

The Brief of the case as per the final report:

1. The case of the prosecution is that accused is the driver of the two wheeler bearing registration number TN 69 BJ 9573 TVS NTORQ 125. On 06.02.2022 at about 18.00hrs, when the deceased in the case along with accused wife and accused were

going on above mentioned bike towards West-east on the road of Tirunelveli to Thoothukudi Highway, Varthagarettipatti Junction. At that time, the above mentioned vehicle was drove by the accused in rash and negligent manner and suddenly collied with the service road stand without balance. Due to this wife of the accused received injuries on her right eyebrow, right cheek, right shoulder and deceased received injuries on her head and died. Hence, the charge-sheet was laid against the accused persons under Sections 279, 337, 304(A) of IPC.

2. This case was taken on file by Judicial Magistrate Court.III, Thoothukudi on 03.09.2022 as CC.No. 1033/2023 for offence under Sections 279,337, 304(A) of IPC and the accused appeared and the accused was furnished with copies of the case documents of free of cost as implicated under section 207 CR.P.C

3. On appearance of the accused before this Court and upon perusing the material records place before this Court there was *prima facie* case made out against the accused to proceed further and accordingly charges were framed against the accused under sections 279, 337,304(A) of IPC and read over and explained to the accused. He denied the charges and he pleaded not guilty and claimed to be tried. Hence, this Court has ordered prosecution to let in evidence.

4. On the side of prosecution to prove the guilt of the accused PW1 to PW3 were examined and Exhibit P1 to P9 were marked.

5. It is case of the prosecution that when LW.19 was serving as the HC in Pudukottai Police Station, on 06.02.2022 at about 23.00 hrs., the de facto complainant appeared and lodged a complaint which is marked as Ex.P1. And FIR filed based on the complaint which is marked as Ex.P2. Thereafter, IO took the case for investigation, on the next day at about 00.30hrs., he went to the place of occurrence and inspected the same in presence of L.W.11 and L.W.12 and prepared observation Mahazar Ex.P3 and Rough sketch Ex.P4. He enquired the witnesses and recorded their

statements in a separate manner. Thereafter, when he was searching the accused, the accused was arrested and released on the station bail. Thereafter, the deceased body were done inquest in front of the panchayatars and corpse was subjected to post mortem and investigation officer enquired the doctor who conducted the post mortem and post mortem certificate was obtained which is marked as Ex.P.7 and he also enquired the doctor who treated the injured persons and obtained wound Certificate which is marked as Ex.P.5 and Ex.P.6 After this, the vehicles involved in the case was sent to Motor vehicle inspection and MV inspector was also enquired and recorded his statement was also. Thereafter, on 30.05.2022 charge sheet was laid against the accused person and it is submitted before this Court for offence under sections 279, 337, 304(A) .

6. The accused was questioned under section 313(1)(b) of Cr.P.C., about the incriminating evidence let in by prosecution, accused denied and he pleaded not guilty and also an endorsement was made to the effect that he had no evidence on defence side.

7. The learned Additional Public Prosecutor appeared for the prosecution has argued the case has been proved for beyond the reasonable doubt through PW.1 to PW.3 and prays for maximum sentence and the learned counsel for the accused argument is also heard.

8. **Point for consideration:**

Whether the prosecution has proved the guilty of the accused beyond reasonable doubts?

9. The case of the prosecution is that accused is the driver of the two wheeler bearing registration number TN 69 BJ 9573 TVS NTORQ 125. On 06.02.2022 at about 18.00hrs, when the deceased in the case along with accused wife and accused were going on above mentioned bike towards West-east on the road of Tirunelveli to Thoothukudi Highway, Varthagarettipatti Junction. At that time, the above mentioned

vehicle was drove by the accused in rash and negligent manner and suddenly collied with the service road stand without balance. Due to this wife of the accused received injuries on her right eyebrow, right cheek, right shoulder and deceased received injuries on her head and died. Hence, the charge-sheet was laid against the accused persons under Sections 279, 337, 304(A) of IPC.

10. In order to prove the case of the prosecution, the prosecution has examined the de- facto complainant as PW.1. She deposed that he know the accused who is her neighbour. And she also deposed that she heard the news that her mother along with accused traveling near to Varthagarettipatti Vilakku on 06.02.2022 at about 06.00P.M, have faced accident and her mother died on the spot. And when she was cross examined by the defence side counsel. She deposed that she said the same to police official above mentioned the same in the complaint.

11. And Nextly, the attesting witness to the complaint statement and also the hearsay witnesses to the above case is examined as P.W2. He deposed that the deceased in this case is his aunt and he heard the news that once upon a day (ie)2 years back at about 6.00 P.M., his aunt faced an accident at Varthagarettipatti Vilakku and he also heard that his aunt died on the spot. And when he was cross examined by defence side counsel, they were able to receive answers from him that "காவல் துறையினர் விசாரணையின் போதும், மேற்சொன்ன தகவலைத் தான் நான் கூறினேன் என்றால் சரிதான்." So from this it is inferred that he has also not seen the accident directly. In the absence of clear cut witness to give in what circumstances does the incident happened and in what manner thus the accident happened then the prosecution case is not proved beyond the reasonable doubt. Even though, the prosecution has listed out 21 witnesses they had examined only 3 witnesses.

12. In further prosecution side dispensed all other witness and examined the Inspector who is now SHO to the station as PW.3. He deposed based on the records and charge-sheet submitted by the Investigating Officer and marked the documents

Ex.P2 to Ex.P9 and supported the case of the prosecution.

13. It is admitted fact, that the deceased died and there is no doubt in it. But, there is no evidence connecting the accused towards this accident. Only,when there is any evidence on the side of prosecution to show that the accused drove the vehicle in careless and Negligent manner then it can act as the reason for the death of the deceased. There is no evident factor to prove that or to show cause that due to the Negligent manner act of the accused the deceased died. As per the ingredient of Section 304A IPC. There must be death of the person and that death must be immediate cause of the careless act,only then the person with careless and negligent manner can be held liable. Applying the factum to this instant case the death of the deceased is confirmed but, the careless or negligent manner of the accused is not shown through the evidence let in by the prosecution. And moreover, there is no identification of the accused nor the vehicle by any witness stating that this was the accused person and he has drove the particular vehicle in a careless and negligent manner and due to this the deceased met with the accident and consequently died. In the absence of such clear testimony this court cannot decide that the accused is responsible for the accident and held liable.

14. From the witnesses examined, it is found that the de- facto complainant itself did not depose any fact as alleged by prosecution, so it forms fatal to the prosecution. Further, she does admits the complaint was given by her but he and also the attesting witness as quoted by prosecution has failed to identify the accused that he was the person who took the deceased in his vehicle. None of the witnesses except PW.3 has supported the case of the prosecution. So, this Court considers that through the testimony of PW.3 alone the case is not proved beyond reasonable doubt.

15. In the absence of their testimony, the ingredients of Sections 279, 337, 304(A) IPC does not get attracted. In the absence of clear evidence this Court cannot convict the accused based on the presumption and also cannot rely solely on testimony of

PW.3 to convict the accused and he is entitled to be given the benefit of doubt and to be acquitted from the charges.

16. Hence, this Court considers that the prosecution has failed to prove the case beyond reasonable doubt. With testimony of PW.3 alone, the accused cannot be held liable for the charges framed against him. So, he deserve to be acquitted from the case. So, the benefit of doubt is reckoned to the accused and the accused is acquitted from the charges 279, 337, 304(A) IPC, U/s. 248 (1) of CR.P.C., and there is no order with regard to property and the bail bond entered if any shall expire automatically after appeal time is over.

Dictated to the Typist and directly typed in the Computer by her corrected and pronounced by me in open Court, this the 09th day of September 2025.

Judicial Magistrate No.III,
Thoothukudi.

Prosecution side witness

PW 1 Banupriya

PW2 Icourtraja

PW3 Murugan(Inspector)

Prosecution side exhibits

1. Ex.P1 Complaint
2. Ex.P2 FIR
3. Ex.P3 Observation Mahazar
4. Ex.P4 Rough Sketch
5. Ex.P5 Tamil selvi's Wound Certificate
6. Ex.P6 Harikrishnan's Wound Certificate
7. Ex. P7 Post Mortem Report
8. Ex.P8 Inquest
9. Ex.P9 Motor Vehicle Report

Prosecution side Material Objects: Nil

Defence side witness: Nil

Judicial Magistrate No.III,
Thoothukudi.