

**IN THE COURT OF THE JUDICIAL MAGISTRATE,
SULUR, COIMBATORE DISTRICT.**

Present: Thiru.T.Arunkumar, M.A.,M.L.,M.B.A.,

Judicial Magistrate, Sulur.

Tuesday, the 5th day of May 2026

Calendar Case No: 61 of 2017

(CNR No.TNCB18-000014-2017)

1.	Serial Number of the Case	Calendar Case No: 61 of 2017
2.	Name of the Complainant & Address	The State of Tamil Nadu, represented by the Inspector of Police, Sulur Police station in Crime No: 262 of 2015.
3.	Name, age, father's name and address of the Accused	Mr. Abishek Prasanna (Aged 18/2015), S/o. Ashok kumar, 5 A, SNV Gardens, Nanjundapuram, Coimbatore.
4.	Offence Complained of	Offence under Sections 279, 304-A of IPC.
5.	Date of Offence	19.04.2015.
6.	Date of Complaint	20.04.2015.
7.	Plea of the Accused and his Examination in Brief	Pleaded not guilty.
8.	Apprehension	01.06.2015.
9.	Released on bail	01.06.2015.
10.	Commencement of trial	18.09.2025.
11.	Close of trial	04.05.2026.
12.	Judgment Reserved on	04.05.2026.
13.	Judgment Pronounced on	05.05.2026.
14.	Sentence or Order	Acquitted.
15.	Explanation of Delay	No delay.
16.	Remarks	No remarks.

As per Amendment to the Criminal Rules of Practice 2019 dated 23.03.2022, the case summary is detailed below

Sl.No.	CASE SUMMARY			
i).	The period of remand of the accused	Name of the accused	Date of Remand	Release on
		Mr. Abishek Prasanna (Aged 18/2015), S/o. Ashok kumar, 5 A, SNVGardens, Nanjundapuram, Coimbatore.	01.06.2015.	01.06.2015.
ii).	Date of filing of the complaint/ final report in the court	Filing of Complaint	Filing of Final report	
		-	02.03.2016.	
iii).	Date of committal of the cases to the Court of Sessions.	Nil	Nil	
iv).	Date of questioning of the accused under section 228, 240, 246 and 251 of the Code of Criminal Procedure, 1973, as the case may be;	Questioning under section 251(2) of Cr.P.C on 18.09.2025.		
v).	Filing of all miscellaneous petitions and their results including the results on	Crl.M.P.No. & under section or prayer	Date of filing	Result

	challenge before superior Courts; except routine petitions like petitions under Section 317 of the Code;			
		MP No. 1/2025- Sureties action	Initiated on 03.07.2025	Dropped on 17.09.2025
		MP 23/2025- Surrender petition	Filed on 17.09.2025	Allowed on 17.09.2025
		MP 24/2025- Petition u/s 72(2) of BNSS	Filed on 17.09.2025	Allowed on 17.09.2025
		MP No. 21/2026-294(3) Cr.P.C Petition filed.	Filed on 29.04.2026	Allowed on 29.04.2026
		MP No. 22/2026-311 Cr.P.C Petition filed.	Filed on 29.04.2026	Allowed on 29.04.2026
vi).	Date of Examination in chief and cross	Name of the Witness	Date of Chief Examination	Date of Cross Examination
		PW1-Mr. Vivekanandhan. PW2-Mr. Sakthivel. PW3-Mrs.Bhuvaneshwari. PW4-Mr. Prem Anand, The Inspector of Police.	25.09.2025 08.10.2025. 08.10.2025. 29.04.2026	25.09.2025. 08.10.2025. 08.10.2025. 29.04.2026.
vii).	Date of examination of the accused under section			

	313 of the Code;	04.05.2026
viii).	Details of abscondance of an accused and his appearance / production, as the case may be; and	Nil
ix).	Grant of stay by superior courts and the results thereof	Nil
x).	Details of victim compensation ordered.	Nil

This case cognizance was taken on file on 02.03.2016 and came up for final hearing this the 04th day of May 2026 before this court, in the presence of Tmt.R.Senthamil Selvi, B.A.,B.L.,(Hons) Learned Assistant Public Prosecutor Grade-II for the State and Thiru. A. Paul Pandian, B.A., B.L., Learned Counsel appeared for the accused and having stood over for consideration till this day, upon perusing the records and on hearing both side arguments, this court doth delivers the following

J U D G M E N T

(1).The gist of the final report filed by the Inspector of Police, Sulur Police Station in Crime No: 262 of 2015 under Sections 279, 304-A of IPC is as follows:-

The Inspector of Police, Sulur Police Station, had laid the final report in terms of Section 173(2) Cr.P.C against the accused that on 19.04.2015 at 15.30 hrs, Coimbatore to Avinashi Main Road, near Neelambur, opposite Sri Annai Towers the accused was being driven KTM TN 66 M779 two wheeler from west to east in a rash and negligent manner at high speed, and lost his control hit the deceased Kathirvel and caused severe head injuries, particularly at the back of the head, and he was admitted to KMCH hospital, Coimbatore. Where he succumbed to the injuries at about 17.00 hours on 21.04.2015. Hence, the Inspector of Police filed the Charge sheet against the accused Abishek Prasanna for the offences U/s.279 and 304-A of IPC.

(2). The Accused appeared on summons and he was furnished with the free copies of the case records in compliance with section 207 of Cr.P.C. After giving sufficient time, on the basis of contents in the final report the substance of accusation were explained to the accused in terms of Section 251 Cr.P.C. The accused denied the accusation under sections 279 and 304-A IPC to be false and claimed to be tried. Thereafter the Prosecution witnesses were ordered to be examined by issuing summons to the witnesses.

(3). It is the endeavour of the prosecution to prove the guilt of the accused beyond all reasonable doubts by adducing suitable evidence and relevant materials. The prosecution side has examined 4 witnesses out of 13 witnesses let in the final report to establish the guilt of the accused, LW2, LW3, LW5, LW6, LW8 to LW12 were dispensed by the prosecution and marked **Ex.P1 to Ex.P9**. No Material objects were marked. On the side of the defence, no oral or documentary evidence were adduced and no Material objects were marked.

(4). The case of prosecution as revealed by the prosecution witnesses and their evidence is as under:-

(4.1) PW1, Mr. Vivekanandhan, is a hearsay witness in this case. He deposed that on 19.04.2015, his relative (PW2) contacted him over the phone and informed him about the accident involving his brother-in-law near Annai Towers, opposite Le Meridien Hotel, on the Coimbatore to Avinashi Road. Upon receiving the information, he went to KMCH Hospital, Coimbatore, where the injured was undergoing treatment in the emergency ward. He further deposed that the injured succumbed to the injuries on 21.04.2015 and also spoke about his presence at the time of the inquest.

(4.2) PW2, Mr. Sakthivel, is a hearsay witness and the de facto complainant in this case. He lodged **Ex.P:1** complaint before LW11, thereby setting the law in motion. He deposed that the deceased was his brother. On 19.04.2015, an ambulance driver contacted him over the phone and informed him about the accident involving his brother near Annai Towers, opposite Le Meridien Hotel, on the Coimbatore to Avinashi Road. He immediately went to KMCH Hospital, Coimbatore, where he found his brother with multiple head injuries in an unconscious condition. He informed his relatives about the same. After two days of treatment, his brother was declared dead in the hospital without recovery. He also deposed about his presence at the time of the inquest.

(4.3) PW3, Mrs. Bhuvaneshwari, is a hearsay witness in this case. She deposed that the deceased was her husband. On 19.04.2015, her relative (PW2) informed her over the phone about the accident involving her husband near Annai Towers. She went to KMCH Hospital, Coimbatore, where her husband was found with multiple head injuries and in an unconscious condition. She further deposed that on 21.04.2015, her husband was declared dead in the hospital without recovery. She also spoke about her presence at the time of the inquest.

(4.4) PW4, Mr. Prem Anand, Inspector of Police, deposed that LW11, Mr. Ponraj, Sub-Inspector of Police, Sular Police Station, received the complaint from PW2, Mr. Sakthivel, and registered **Ex.P:2** First Information Report in Crime No. 262 of 2015 for the offences under Sections 279 and 304-A of the IPC. He further deposed that he proceeded to the scene of occurrence and prepared **Ex.P:3** Observation Mahazar and **Ex.P:4** Rough Sketch in the presence of witnesses LW2, Mr. Santhakumar, and LW3, Mr. Sathishkumar.

(4.5) He further deposed that on 21.04.2015, the injured succumbed to the injuries. To ascertain the cause of death, LW13 conducted the inquest at KMCH Hospital, Coimbatore, in the presence of witnesses and panchayatdars, prepared the Inquest Report, and recorded the statements of inquest witnesses. Based on the investigation, the charges were altered from Sections 279 and 337 of the IPC to Sections 279 and 304-A of the IPC, and **Ex.P:5** Alteration Report was filed. Thereafter, LW12, Mr. Ramesh Kannan, Inspector of Police, took up further investigation, arrested the accused, and released him on station bail. The offending vehicle was sent along with a requisition to ascertain whether there was any mechanical defect, and **Ex.P:6** Inspection Report for the vehicle bearing Registration No. TN-66-M-7779 (driven by the accused) and **Ex.P:7** Inspection Report for the vehicle bearing Registration No. TN-37-BS-0096 (driven by the deceased Kathirvel) were obtained. The Motor Vehicle Inspector was examined and his statement was recorded. He further examined Dr. Kesava Moorthi, KMCH Hospital, Coimbatore, who treated the deceased, and obtained **Ex.P:8** Death Intimation. The body was thereafter sent for post-mortem examination to LW10, Dr. Kulanthaivelu, KMCH Hospital, Coimbatore, who conducted the post-mortem and issued **Ex.P:9** Post-mortem Certificate. Upon completion of investigation, a final report was filed against the accused, Abishek

Prasanna, for the offences under Sections 279 and 304-A of the Indian Penal Code, 1860. With this, the prosecution evidence was closed.

(5). The accused was then questioned under section 313(1)(b) Cr.P.C about the incriminating circumstances found in the evidence of the prosecution witnesses, whereas the accused denied his complicity with the crime and stated that he does not have witness. Hence defence side evidence is closed.

(6). The Point for determination is whether the prosecution has proved the guilt of the accused under sections 279 and 304-A IPC beyond all reasonable doubts?

In order to bring home the guilt for the aforesaid offence the prosecution is under an obligation to prove the following essential ingredients: (1) there was the death of a person, (2) the said death was caused by the accused, (3) the said act of the accused in causing the death of the person was rash or negligent but it did not amount to the culpable homicide.

(7). In a nutshell in order to prove the same, the prosecution is required to prove the following facts :-

- (a). the identity of the accused being the driver of the offending vehicle.
- (b). the alleged accident is caused by the rash and negligent driving by the accused at a public place.
- (c). the rash and negligent driving resulted into the death of the deceased which is not amounting to the culpable homicide.

(8). This court now proceed to consider the oral and documentary evidence produced by the prosecution in support of their case in the question to find out whether the prosecution has been successful in bringing the cogent evidence for justifying the conviction of the accused or whether the accused has been able to cast a shadow on the prosecution case for securing his acquittal in the present case.

(9). Final Arguments Advanced on the side of prosecution by Learned Assistant Public Prosecutor for state and defence. Evidence adduced on either side perused. The Learned Assistant Public Prosecutor for the state contended that the guilt of the accused has been proved by the prosecution beyond all reasonable doubts. While refuting the Arguments of the prosecution the learned counsel appearing for defence contended that

the prosecution miserably failed to establish the accusation through the supportive evidence and materials.

(10). IDENTITY OF THE ACCUSED AND THE OFFENDING VEHICLE:-

(10.1). The first and foremost ingredients for proving the case against the accused is the establishment of the identity of the accused by the prosecution being the one who caused the present accident as the same is most essential for fixing the guilt of the accused. The accused is not identified by the prosecution witnesses namely PW 1 to PW 3. Hence, the identity of the accused is not proved by the prosecution.

(11). CAUSE OF INJURIES:-

(11.1). The second foremost essential ingredients to be proved by the prosecution for securing the conviction of the accused for the offence punishable u/s.279, 304A IPC is that the death of the person is the direct result of rash and negligent act of the accused. The prosecution had alleged that the deceased Kathirvel sustained injuries and died in the hospital. The Rough sketch **Ex.P:4** is proved by PW4. **Ex.P:9** Postmortem report of the deceased is supporting the prosecution version regarding the death was due to "MULTIPLE INJURIES AND ITS COMPLICATIONS".

(12). RASHNESS OR NEGLIGENCE:-

(12.1). The other most essential ingredients to be proved by the prosecution for the offence under sections 279/304A IPC against the accused is "Rash and Negligent Driving".

(12.2). Before proceeding further, it is necessary to analysis what section 304A IPC say about rash or negligent driving. The section 304A IPC does not exactly specify what is meant by word rash and negligence. As per Straight J. Criminal rashness " is doing a dangerous or Wanton Act with the knowledge that it is so, and that it may cause injury, but without intention to cause such injury, or with the knowledge that such injury will probably be caused". The criminality lies in running the risk or doing of such an act with recklessness or indifference as to its consequences. Criminal negligence "is the gross and culpable neglect or failure to exercise reasonable and proper care and precautions to guard against any injury either to the public generally or to an individual in particular, which having regard to all the circumstances out of which the consequences has arisen, it was the imperative duty of the accused persons to have adopted".

(13). These observation approved by **Hon'ble Supreme Court in Bala Chandra Vs. State of Maharashtra (AIR 1968SC1319)**. In the said case, the Hon'ble Supreme Court has observed :

"Criminal negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care and precautions to guard against any injury either to the public generally or to an individual in particular, which having regard to all the circumstances out of which the consequences has arisen, it was the imperative duty of the accused person to have adopted".

(14). In a case of rash or negligent driving, the test is whether the prosecution has proved that :-

(i).The accused was driving the vehicle in such a manner so as to create an obvious and serious risk of causing physical injury to some other person who might happens to be using the road or of doing substantial damages to the property.

(ii). In driving the vehicle in that manner the accused did so without having given any thought to the possibility of there being such risk or, having recognized that there was some risk involved, had nonetheless gone on to take it.

(iii).The rash or negligent act must be the proximate cause of injury of the injured.

(15). The prosecution examined PW1 to PW4 to prove the prosecution case. Except PW1 and PW3, no other witness had been examined by the prosecution who were mentioned in the list of witness. Further, witnesses examined on the side of prosecution had neither identified the accused nor the rash and negligent driving of the accused. Though **Ex.P:9** postmortem report showed that the deceased died due to the injuries sustained in the road accident there was nothing before this court to prove the rash and negligent driving of the accused.

(15.1). None of the witness had neither identified the accused nor the offending vehicle or deposed about the rash or negligent act of the accused. Therefore the accused could not be held liable for the offence punishable under Section 279 and 304(A) IPC on the basis of evidence of PW4 Mr. Prem Anand, the Inspector of police.

(16). Since none of the witness examined by the prosecution, had deposed about the accused and the rash and negligence of the accused, the prosecution has miserably

failed to establish the allegations against the accused under section 279 and 304(A) of IPC beyond reasonable doubt. Hence, the accused is entitled to the benefit of doubt.

(17). *Suleman Rehiman Mulani and another Vs State of Maharashtra AIR 1968 SC Pg 89*

There should be a material on record to find out under what circumstances the accident took place. The evidence of eye witness is very much essential to the court to arrive the conclusion that the accident were took place on the negligence of the accused. Otherwise, benefit of doubt should be in favour of the accused.

(18).The dictum squarely applicable to our present case it is not possible to find out under what circumstances the accident took place. Further, there are no evidence can establish the rash and negligent driving on the part of the accused.

(19). There is absolutely no evidence to show that the accused was responsible for the accident. The prosecution has not produced any evidence to show as to how the accident took place. The possibility of the accident having been caused due to the fault of the deceased cannot be ruled out.

(20). In view of the aforesaid findings this Court is of the considered view that the prosecution has failed to prove the case beyond reasonable doubts that the accused drove his vehicle on a public way in a rash and negligent manner so as to endanger human life and personal safety of others and hit the same against the pedestrian and caused his death not amounting to the culpable homicide and thereby committed an offence punishable u/s.279 and 304-A IPC.

(21). In result, the accused is not found guilty of the charge under Section 279 and 304A IPC and is therefore acquitted under Section 255(1) of the Code. The bail bonds executed by the accused stands cancelled after appeal or appeal period.

(22). No case property is produced in this case. Hence no case property order.

This judgment is dictated by me to the Steno typist and typed by her directly in the computer and after effecting necessary corrections pronounced by me in the open Court on this the 5th day of May 2026.

Judicial Magistrate,
Sulur.

As per the Judgment of the Hon'ble Supreme Court of India in Manoj Bhai Jetha Bhai Parmar Vs State of Gujarat 2025 INSC 143 dated 15.12.2025, the appendix is added :-

List of prosecution side witnesses Examined:

Prosecution Witness No.	Name of Witness	Description
01.	Mr. Vivekanandhan.	Hearsay witness
02.	Mr. Sakthivel.	Hearsay / Defacto complainant
03.	Mr.Bhuvaneshwari	Hearsay witness
04.	Mr.Prem Anand, the Inspector of Police.	Investigating Officer

List of prosecution side Exhibited Documents:

Sl.No. of the exhibits	Description of the exhibit and its date	Date, when the exhibit was filed in the case	How marked	Proved by / attested by	Remarks
01.	Complaint dated 20.04.2015.	08.10.2025	Ex.P:1	PW2	Original
02.	First Information report dated 19.04.2015.	29.04.2026	Ex.P:2	PW4	Original
03.	Observation Mahazar dated 20.04.2015.	29.04.2026	Ex.P:3	PW4	Original
04.	Rough Sketch dated 20.04.2015.	29.04.2026	Ex.P:4	PW4	Original
05.	Alteration report dated 22.04.2015.	29.04.2026	Ex.P:5	PW4	Original
06.	MV report dated 02.06.2015 for the vehicle bearing Registration No.TN-66-M-7779.	29.04.2026	Ex.P:6	PW4	Original
07.	MV report dated 27.04.2015 for the vehicle bearing Registration No.TN-37-BS-0096.	29.04.2026	Ex.P:7	PW4	Original

08.	Death Intimation Dated 21.04.2015	29.04.2026	Ex.P:8	PW4	Original
09.	Postmortem Certificate dated 22.04.2015.	29.04.2026	Ex.P:9	PW4	Original

Prosecution side material objects:-

Material Object No.	Description of the Exhibit	Proved by / Attested by
01.	Nil	Nil
02.	Nil	Nil

List of witness on the side of the accused: Nil

List of exhibits on the side of the accused: Nil

Note:

- (1). The accused was on bail during the trial period.
- (2). No witnesses was detained for more than 3 hearings.
- (3). In the result the accused is acquitted under section 255(1) of Crpc for the offences under section 279 and 304(A) of IPC. The bail bonds executed by the accused stands cancelled after appeal or appeal period.
- (4). The result of the case informed to the police.
- (5). Copy of judgment submitted.
- (6). Office is directed to send entire case records to consignment after appeal or appeal period, if any.

(Sd/-T.Arunkumar)
Judicial Magistrate,
Sulur.