

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

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

Judicial Magistrate, Sulur.

Friday, the 24th day of April 2026

Calendar Case No: 2 of 2025

(CNR No.TNCB18-000018-2025)

1.	Serial Number of the Case	Calendar Case No. 2 of 2025
2.	Name of the Complainant & Address	The State of Tamil Nadu, represented by the Inspector of Police, (Negamam PS) Sulthanpettai Police station in Crime No: 323 of 2016 .
3.	Name, age, father's name and address of the Accused	Mr.Alagarsamy (37/2016), S/o.Subramaniam, 1/27, Kilaikudi, Elamanuur, Uralapuri, Eilayankudi(TK), Siva Gangai District.
4.	Offence Complained of	Offence under Sections 279, 304-A of IPC.
5.	Date of Offence	04.11.2016.
6.	Date of Complaint	04.11.2016.
7.	Plea of the Accused and his Examination in Brief	Pleaded not guilty.
8.	Apprehension	04.11.2016.
9.	Released on bail	11.11.2016.
10.	Commencement of trial	15.10.2025.
11.	Close of trial	22.04.2026.
12.	Judgment Reserved on	22.04.2026.
13.	Judgment Pronounced on	24.04.2026.
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.Alagarsamy (37/2016), S/o.Subramaniam, 1/27, Kilaikudi, Elamanuur, Uralapuri, Eilayankudi(TK), Siva Gangai District.	04.11.2016.	11.11.2016.
ii).	Date of filing of the complaint/ final report in the court	Filing of Complaint	Filing of Final report	
		-	13.10.2017.	
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 08.12.2017.		
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;			
		CRLMP -6737/2016 Bail petition	Filed on 11.11.2016	Allowed on 11.11.2016
		M.P.No.02/2026- petition u/s 294 Cr.P.C	Filed on 21.04.2026	Allowed on 21.04.2026
		M.P.No.03/2026- petition u/s 311 Cr.P.C	Filed on 21.04.2026	Allowed on 21.04.2026
vi).	Date of Examination in chief and cross	Name of the Witness	Date of Chief Examination	Date of Cross Examination
		PW1-Mr. Ponnusamy . PW2-Mr. Muthusamy. PW3-Mr. Devaraj. PW4-Mr. Mayilathal. PW5-Mr. Eswaran. PW6-Mrs. Praveena, the Inspector of Police.	09.04.2026. 09.04.2026. 15.04.2026. 15.04.2026. 16.04.2026. 20.04.2026	Hostile. 09.04.2026. 15.04.2026. 15.04.2026. Hostile. 20.04.2026.
vii).	Date of examination of the accused under section 313 of the Code;	22.04.2026		
viii).	Details of abscondance of an accused and his appearance / production, as the case may be; and	Nil		
ix).	Grant of stay by superior	Nil		

	courts and the results thereof	
x).	Details of victim compensation ordered.	Nil

This case cognizance was taken on file on 13.10.2017 by the Judicial Magistrate, Pollachi as CC 206/2017 and on the point of jurisdiction, transferred to this court and renumbered as CC 2/2025 and came up for final hearing on 22nd day of April 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. J. Govindharajan, 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, Negamam Police Station in Crime No: 323 of 2016 under Sections 279, 304-A of IPC is as follows:-

The Inspector of Police, Negamam Police Station, laid the final report in terms of Section 173(2) Cr.P.C. against the accused, stating that on 04.11.2016 at about 6:45 a.m., the accused drove his tourist bus on the Palladam to Udumalai main road, near Vadugapalayam Junction, from north to south, and hit the deceased, namely Chellamuthu and Ramathal, who were standing in front of him on a bike to cross the road, in a rash and negligent manner, thereby committing offences punishable under Sections 279 and 304-A (two counts) of the 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 U/s.279,304-A (2 counts) of 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 5 witnesses out of 14 witnesses let in the final report to establish the guilt of the accused, LW5 to LW7, LW9 to LW13 were dispensed by the prosecution and marked Ex.P1 to Ex.P10. No Material objects were marked. On the side of the defense, 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. Ponnusamy, is the defacto complainant and an eye-witness in this case. He deposed in his evidence that about ten years ago, while he was at his house, the deceased invited him to attend a function. After about 45 minutes, he received a call from someone stating that his aunt and uncle had met with an accident. Immediately, he rushed to the spot and found that both had sustained injuries all over their bodies and were dead. Thereafter, he preferred Ex.P1 complaint before LW12 to set the law in motion.

(4.2) PW2, Mr. Muthusamy, is a witness to the observation mahazar. He deposed in his evidence that about ten years ago, while he was at the place of occurrence, the police arrived there, conducted an inspection, and prepared Ex.P2 Observation Mahazar in his presence. One Koteeswaran was also present at the place of occurrence.

(4.3) PW3, Mr. Devaraj, and PW4, Mayilathal, deposed in their evidence that, upon receiving information regarding the accident, they went to the place of occurrence and found that both the victims had succumbed to their injuries.

(4.4) PW5, Mr. Eswaran, deposed in his evidence that he received information from a bystander regarding the accident, and thereafter went to the place of occurrence and found that Chellamuthu and Ramathal had died due to the accident.

(4.5) PW6, Mrs. Praveena, Inspector of Police, deposed in her evidence that LW12, Mr. Rajendran, Sub-Inspector of Police, Negamam Police Station, received Ex.P1 complaint from PW1, Mr. Ponnusamy, and registered Ex.P3 First Information Report in Crime No.323 of 2016 for the offences under Sections 279 and 304-A (two counts) of IPC. Thereafter, the Inspector of Police, LW13 Mr. Shanmugasundaram, took up the case for investigation, proceeded to the scene of occurrence, and prepared Ex.P2 Observation Mahazar and Ex.P4 Rough Sketch in the presence of witnesses PW2, Mr. Muthusamy, and LW7, Mr. Magudeswaran.

(4.6) On the same day, he recorded the statements of witnesses, namely PW1 Ponnusamy, PW5 Eswaran, PW3 Devaraj, PW4 Mayilathal, PW2 Muthusamy, and LW7 Magudeswaran. Further, in order to ascertain the cause of death of the deceased, namely Chellamuthu and Ramathal, he conducted inquest in the presence of witnesses and panchayatdars, and prepared Ex.P5 Inquest Report (Chellamuthu) and Ex.P6 Inquest Report (Ramathal), and recorded the statements of witnesses LW5 Palanisamy and LW6 Malarselvi. Both the dead bodies were sent for postmortem examination with the help of LW11 Dhanalakshmi.

(4.7) In continuation of the investigation, the accused was arrested on 04.11.2016 and remanded to judicial custody. The offending vehicle was sent along with a requisition to ascertain whether there was any mechanical defect, and Ex.P7 Inspection Report was obtained for the vehicle bearing Reg. No. PY 05 A 8889. The vehicle driven by the deceased was also sent along with a requisition for the same purpose, and Ex.P8 Inspection Report was obtained for the vehicle bearing Reg. No. TN 42 L 8291. The Motor Vehicle Inspector, LW10 Ulaganathan, was examined and his statement recorded. Further, LW9 Maran, the owner of the offending vehicle, was examined. The doctor, LW11 Dr. Dhanalakshmi, who conducted the autopsy on the deceased, namely Chellamuthu and Ramathal, was also examined, and Ex.P9

Postmortem Certificate (Chellamuthu) and Ex.P10 Postmortem Certificate (Ramathal) were obtained. Upon completion of the investigation, the final report was filed against the accused Alagarsamy for the offences under Sections 279 and 304-A (two counts) 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 witnesss. 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, 304-A (2 counts)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. As per the case of the prosecution PW1 and PW5 are examined as eye witness in this case. They both not identified the driver of the offending vehicle. Hence, the prosecution failed to prove the identity of the accused in this case beyond reasonable doubt.

(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 Chellamuthu and Ramathal sustained multiple injuries and died in the hospital. The Rough sketch **Ex.P:4** is proved by PW6. **Ex.P:5** Inquest report of deceased Chellamuthu and **Ex.P:6** Inquest report of deceased Ramathal, **Ex.P:9** Postmortem report of the deceased Chellamuthu, **Ex.P:10** Postmortem report of the deceased Ramathal are supporting the prosecution version regarding the death of the

deceased Chellamuthu and Ramathal was due to “ **shock and hemorrhage to vital organs**”.

(12). RASHNESS OR NEGLIGENCE:-

(12.1). The other most essential ingredients to be proved by the prosecution for the offence under sections 279,304A (2 counts) 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 and PW5 as eye witness in this case, but both the witnesses deposed like hearsay. In this case PW1 and PW5 who are the Material witnesses, and turned hostile and failed to support the prosecution. Their evidence was purely hearsay in nature. Hence, they were treated as hostile and cross examined by the learned public prosecutor for the state. However, nothing useful evidence were elicited to support the prosecution case.

(16). Its is settled law in order to convict an accused, the prosecution must establish the act of the accused was rash or negligent Such act directly resulted in the death of the victim In the present case:

(i) Eyewitnesses unreliable

PW1 and PW2, who are the material witnesses, have turned hostile and failed to support the prosecution. Their evidence being hearsay, cannot be relied upon.

(ii) No direct evidence

There is no direct evidence to show:

(a) Who was driving the vehicle,Whether the accused drove in a rash or negligent manner

(iii) Medical evidence insufficient

Though the medical evidence (Postmortem Report) proves the death, it does not establish negligence of the accused. Hence, without oral or documentary evidence, this court cannot come to the conclusion that the accident had happened on the negligence of the accused.

(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 at the conclusion that the accident 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 is that it is not possible to find out under what circumstances the accident took place. Further, there is no evidence which 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 against the pedestrian and caused death not amounting to the culpable homicide and thereby committed an offence punishable u/s.279 304-A (2 counts) IPC.

(21). In result, the accused is not found guilty of the charge under Sections u/s.279, and 304-A (2 counts) IPC and is therefore acquitted under Section 255(1) of the Code. The bail bonds executed by the accused stand 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 typist and typed by her directly in the computer and after effecting necessary corrections pronounced by me in the open Court on this the 24th day of April 2026.

(Sd/- T. Arunkumar)

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. Ponnusamy.	Eye Witness / Defacto complainant.
02.	Mr. Muthusamy.	Observation Mahazar Witness
03.	Mr. Devaraj.	Hearsay witness
04.	Mrs. Mayilathal	Hearsay witness
05.	Mr. Eswaran.	Eye Witness
06.	Mrs. Praveena, the Inspector of Police/ Investigation Officer.	The Investigating Officer.

List of prosecution side Exhibited Documents:

Sl.No. of the	Description of the exhibit and its date	Date, when the exhibit	How marked	Proved by /	Remarks
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exhibits		was filed in the case		attested by	
01.	Report dated 04.11.2016.	09.04.2026.	Ex.P:1	PW1	Original
02.	Observation Mahazar dated 04.11.2016.	09.04.2026	Ex.P:2	PW2	Original
03.	First Information report dated 04.11.2016.	20.04.2026	Ex.P:3	PW6	Original
04.	Rough Sketch dated 04.11.2016.	20.04.2026	Ex.P:4	PW6	Original
05.	Inquest Report of deceased Chellamuthu dated 04.11.2016.	20.04.2026	Ex.P:5	PW6	Original
06.	Inquest Report of deceased Ramathal dated 04.11.2016.	20.04.2026	Ex.P:6	PW6	Original
07.	Post mortem Report of deceased Chellamuthu dated 04.11.2016.	20.04.2026	Ex.P:7	PW6	Original
08.	Post mortem Report of deceased Ramathal dated 04.11.2016.	20.04.2026	Ex.P:8	PW6	Original
09.	MV report for the vehicle bearing Registration No. PY-05-A-8889 dated 09.11.2016.	20.02.2026	Ex.P:9	PW6	Original
10.	MV report for the vehicle bearing Registration No. TN 42 L 8291 dated 09.11.2016.	20.02.2026	Ex.P:10	PW6	Original

Prosecution side material objects:-

Material Object	Description of the Exhibit	Proved by / Attested by
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No.		
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 279,304(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.