

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

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

Judicial Magistrate, Sular.

Wednesday, the 13th day of May 2026

Calendar Case No:58 of 2024

(CNR No.TNCB18-003698-2024)

1.	Serial Number of the Case	Calendar Case No:58 of 2024
2.	Name of the Complainant & Address	The State of Tamil Nadu, represented by the Inspector of Police, Sular Police station in Crime No:116 of 2023.
3.	Name, age, father's name and address of the Accused	Moorthi (38/2023), S/o. Arumugam, D.No. 1/311, Kunnathur, Skulam, Annur, Coimbatore.
4.	Offence Complained of	Offence under Sections 279, 304-A of IPC.
5.	Date of Offence	22.02.2023
6.	Date of Complaint	22.02.2023
7.	Plea of the Accused and his Examination in Brief	Pleaded not guilty.
8.	Apprehension	01.03.2023.
9.	Released on bail	01.03.2023.
10.	Commencement of trial	06.02.2025.
11.	Close of trial	11.05.2026.
12.	Judgment Reserved on	12.05.2026.
13.	Judgment Pronounced on	13.05.2026.
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
		Moorthi (38/2023), S/o. Arumugam, D.No. 1/311, Kunnathur, Skulam, Annur, Coimbatore.	01.03.2023.	01.03.2023.
ii).	Date of filing of the complaint/ final report in the court	Filing of Complaint	Filing of Final report	
		-	25.06.2024	
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 06.02.2025.		
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;			
		M.P.No. 1/2025 – Advance Hearing Petition	Filed on 28.07.2025	Allowed on 28.07.2025
		M.P.No. 2/2025 - Surrender Petition	Filed on 28.07.2025	Allowed on 28.07.2025
		M.P.No. 3/2025 – Petition u/s 72(2) of BNSS Act	Filed on 28.07.2025	Allowed on 28.07.2025
		M.P.No. 5/2026 – Petition u/s 294 of Cr .P.C	Filed on 07.05.2026	Allowed on 07.05.2026
vi).	Date of Examination in chief and cross	Name of the Witness	Date of Chief Examination	Date of Cross Examination
		PW1-Mr.Bichira Jena. PW2-Mr. Rajasekar. PW3-Mr.Venkadachalapathy. PW4-Mr. Madhaiyan, Inspector of police.	17.09.2025. 09.04.2026. 07.05.2026. 07.05.2026.	17.09.2025. 09.04.2026. 07.05.2026. 07.05.2026.
vii).	Date of examination of the accused under section 313 of the Code;	11.05.2026.		
viii).	Details of abscondance of an accused and his appearance / production, as the case	Nil		

	may be; and	
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 27.06.2024 and came up for final hearing on 11th 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. K. Thirukumaran M.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, Sular Police Station in Crime No:116 of 2023 under Sections 279, 304-A of IPC is as follows:-

The Inspector of Police, Sular Police Station, filed the final report under Section 173(2) of the Code of Criminal Procedure against the accused. The prosecution case is that, on 22.02.2023, at about 07.40 A.M., within the jurisdiction of Sular Police Station, at Sular Pirivu-Sular road near Bharath Petrol Bunk, Kurumbampalayam, the deceased, was walking from east to west across the road and a vehicle came from opposite south to north at a very high speed in a rash and negligent manner, endangering human life, While so driving, the offending vehicle struck Narayana Jena, causing fatal injuries, and scumbed to the injuries. Accordingly, the Inspector of Police filed the charge sheet against the accused for offences punishable under Sections 279 and 304A of the Indian Penal Code.

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 was explained to the accused in terms of Section 251 Cr.P.C. The accused denied the accusation under sections U/s.279,304-A 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 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 and LW3, LW5 and LW6, LW8 to LW12 were dispensed by the prosecution and marked **Ex.P:1** to **Ex.P:8**. 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. Bichira Jena is the defacto complainant in this case and given the **Ex.P:1** report before the LW11 for set the law into motion. PW-1 deposed that the deceased Narayan Jena was his father. On 22nd February 2023, about 08.00 A.M. she was informed by the nearby shopkeepers that his father Narayan Jena had met with an accident near Kurumpampalayam Petrol Bunk and requested him to come immediately he went to the spot and proceeded to the Coimbatore Government Hospital and he deposed that his father died on the same day.

(4.2) PW2 Mr. Rajasekar deposed in his evidence that on 22.02.2023 since Narayana Jana does not know tamil, PW2 wrote and submitted the complaint as per deceased Narayan Jena request.

(4.3) PW 3 Mr. Venkadachalapathy deposed regarding signatory in the **Ex.P:2** Observation Mahazar.

(4.4) PW4 Mr. Madhaiyan the Inspector of Police/the Investigating Officer deposed that on 22.02.2023 at about 12.00 hours, while LW11 Mr. Chelladurai was on duty at Sulur Police Station, one Bichira Jena, son of Narayana Jena, appeared

before the station and lodged **Ex.P:1** report based on the nature of the report, **Ex.P:3** First Information Report was registered in Sulur Police Station Crime No. 116/2023 under Sections 279 and 337 of the Indian Penal Code. The original FIR together with the report was forwarded to the Judicial Magistrate, Sulur. On 22.02.2023 at about 13.00 hours, the Sub Inspector visited the scene of occurrence in the presence of witnesses LW6 Boobalakrishnan and PW3 Vengadachalapathi, prepared an Observation Mahazar and Rough Sketch. The Observation Mahazar has been marked as **Ex.P:2** and the Rough Sketch as **Ex.P:4**.

(4.5) And further deposed that the witnesses PW1 Bichira Jena, LW2 Amulya koda, LW6 Boobalakrishnan, PW3 Vengadachalapathi were examined and their statements recorded individually. He further deposed that following the information regarding the death, the case has been altered from section 279,337 IPC to 279,304 A IPC and the alteration report has been filed as **Ex.P:5**. Thereafter, in order to ascertain the cause of death, the Investigating Officer proceeded to the mortuary of the Coimbatore Government Medical college Hospital, and in the presence of witnesses and panchayatdars conducted inquest over the body of the deceased Narayan Jena. The Inquest Report has been marked as **Ex.P:6**. The inquest witnesses Ranganathi Nayak, Rajasekar, Santhosh Kumar were examined and their statements recorded. The body of the deceased was then subjected to post-mortem examination in order to find the cause of death.

(4.6) The accused voluntarily appeared before the station, he was arrested after being informed of the grounds of arrest and was subsequently released on station bail. The vehicle involved in the accident, bearing registration number No. TN-99-J4-4012, was subjected to inspection by the Motor Vehicle Inspector, and the Inspection Report was obtained. The said report has been marked as **Ex.P:7** respectively. The Motor Vehicle Inspector, Mr. Shanmugasundaram, was examined and his statement were recorded.

(4.7) Thereafter, examined Dr. Indunesh, who had confirmed the death of Narayan Jena, and recorded his statement. The post-mortem examination was conducted by the Covai Medical College Hospital, Coimbatore, and the Post-

Mortem Report was obtained and marked as **Ex.P:8**. Upon completion of investigation, a Final Report was filed on 19.05.2023 under Sections 279 and 304-A of the Indian Penal Code. With this, Prosecution evidence closed on the side of the prosecution.

5. EXAMINATION

The accused 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 their complicity with the crime and stated that they have witness. However, there is no witness examined on the defense side. Hence, on representation, defence side evidence is closed.

6. DISCUSSION

The Point for determination is whether the prosecution has proved the guilt of the accused under sections 279, 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 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 defense. 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 counsels appearing for defense 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. Prosecution dispensed the LW 2 namely Amulya Koda who is an eye witness in this case for the reasons whereabouts of LW 2 is unknown. Hence, this court has no hesitation that identity of the accused is not proved by the prosecution beyond all 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 Narayan Jena sustained multiple injuries and died in the hospital. The Rough sketch **Ex.P:4** is proved by PW4 **Ex.P:6** Inquest report and **Ex.P:8** Postmortem report of the deceased Narayan Jena supporting the prosecution version regarding the death of the deceased Narayan Jena was due to “INJURIES SUSTAINED TO HEAD, CHEST AND ABDOMEN”. And further death of the deceased is also not disputed by the learned counsel for the accused.

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 analyse what section 304A IPC says about rash or negligent driving. The section 304A IPC does not exactly specify what is meant by the words 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 have arisen, it was the imperative duty of the accused persons to have adopted".

13. These observations 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 have 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 happen 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 has examined only PW1 to PW4. Their evidence is purely formal in nature:

(15.1) PW1 is the de facto complainant who gave **Ex.P:1** complaint to the police and merely set the criminal law in motion. PW2 is only an inquest witness. PW3 is a witness to the observation mahazar. PW4 is a formal witness (if any), not an eyewitness to the occurrence. The prosecution case, as per the charge sheet, is that LW2 is the sole eyewitness to the alleged occurrence. However, the prosecution has failed to examine LW2 on the ground that his whereabouts are not known. Thus, there is no direct evidence connecting the accused with the alleged offence.

16. Legal Consequence of Non-Examination of Sole Eyewitness:-

(16.1) Where the prosecution itself cites a person as the only eyewitness, but fails to examine that witness, and all other witnesses are merely formal witnesses, the prosecution fails to prove the case beyond reasonable doubt.

(16.2) The settled principle is that while conviction can be based on the testimony of a solitary witness under Section 134 of the Indian Evidence Act, if the solitary eyewitness is not examined at all, the very foundation of the prosecution case collapses.

17. Adverse Inference Under Section 114(g) of the Evidence Act:-

(17.1) Under Section 114(g) of the Indian Evidence Act, the Court may presume that evidence which could and ought to have been produced, but was withheld, would have gone against the prosecution.

(17.2) When the prosecution withholds its only eyewitness, the Court is entitled to draw an adverse inference that the witness would not have supported the prosecution case.

(18) The Madras High Court has consistently held that where the prosecution fails to examine material witnesses, particularly the only eyewitness, and the remaining witnesses are only formal witnesses, the prosecution case becomes doubtful and the accused is entitled to acquittal.

The High Court has repeatedly observed that:

1. FIR is not substantive evidence. Inquest and observation mahazar witnesses do not prove the occurrence. Non-examination of the material eyewitness creates a fatal gap. Benefit of doubt must go to the accused. Application to the Present Case
In the present case:

2. PW1 only lodged the complaint. PW2 and PW3 are formal witnesses. None of the examined witnesses witnessed the occurrence. LW2, the sole eyewitness, was not examined. The prosecution has not produced any legally admissible evidence connecting the accused to the crime.

3. Therefore, there is no substantive evidence to prove the manner of occurrence, the identity of the assailant, the participation of the accused.

4. The burden is entirely on the prosecution to establish guilt beyond reasonable doubt. Suspicion, however strong, cannot replace proof. Since the only eyewitness was withheld, the Court cannot speculate as to what that witness might have stated. The non-examination of LW2 creates a serious lacuna and destroys the prosecution case. Formal witnesses cannot substitute the testimony of the sole eyewitness.

19. (19.1) In view of non-examination of LW2, the sole eyewitness, lack of any direct evidence, applicability of Section 114(g) of the Evidence Act, settled principles laid down by the Supreme Court and the Madras High Court, the prosecution has failed to prove its case beyond reasonable doubt. The accused is therefore entitled to the benefit of doubt and consequent acquittal.

(19.2) There is absolutely no evidence to show that the accused was only 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 .

(19.3) 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 their vehicles 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 IPC.

(19.4) In result, the accused not found guilty of the charge under Sections u/s.279, and 304-A 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.

(19.5) 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 13th day of May 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.Bichira Jena	Defacto complainant
02.	Mr. Rajasekar	Inquest Witness

03.	Mr.Venkadachalapathy	Observation Mahazar
04.	Mr. Madhaiyan	Investigation 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.	Report dated 22.02.2023.	17.09.2025	Ex.P:1	PW 1	Original
02.	Observation Mahazar dated 22.02.2023.	07.05.2026	Ex.P:2	PW 3	Original
03.	First Information Report dated 22.02.2023.	07.05.2026	Ex.P:3	PW 4	Original
04.	Rough Sketch dated 22.02.2023.	07.05.2026	Ex.P:4	PW 4	Original
05.	Legal Section Change report	07.05.2026	Ex.P:5	PW 4	Original
06.	Inquest Report dated 23.02.2023.	07.05.2026	Ex.P:6	PW 4	Original
07.	MV report for the vehicle bearing Registration No.TN-99-J4-012 dated 01.03.2023.	07.05.2026	Ex.P:7	PW 4	Original
08.	Postmortem Certificate dated 23.02.2023.	07.05.2026	Ex.P:8	PW 4	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 279,304(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.