

In the Court of Judicial Magistrate – II ,Usilampatti
Present: Thiru. G. Sathia Narayanan B.A.,B.L.
Judicial Magistrate – II

CALENDAR CASE No. 151/2022

CNR.No.TNMD18000475-2022

(Cr. No. 61/2022, Checkanurani P. S)

Dated this the 18th day of March' 2026

This case was taken on file by this court on 12/07/2022 and it is coming up for final hearing on 13/03/2026 before me in the presence of Assistant Public Prosecutor Grade-II for complainant and Mr.K.Bose, Advocate 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	The Sub – Inspector of Police Checkanurani P. S
Represented by	Asst. Public Prosecutor Grade II
Accused	Rahul, aged 20/2022 S/o.Kakkuveeran, Jeganathapuram, Kovilankulam, Usilampatti taluk, Madurai district.
Represented by	Advocate Mr.K.Bose,

Date of offence	On 13/02/2022 at about 08.30 a.m.
Date of F. I. R	18/02/2022
Date of Charge Sheet	05/03/2022

Date of Framing of Charges	19/09/2022
Date of commencement of evidence	19/09/2022
Date on which Judgment is reserved	13/03/2026
Date of Judgment	18/03/2026
Date of sentence order if any	Nil

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on bail	Offences charged with	Whether acquitted or convicted	Sen ten ce im pos ed	Period of detention undergone during Trial for purpose of section 428 Cr. P. C
1	Rahul	22/02/2022	22/02/2022	279, 304 (A) IPC	Acquitted	---	---

1.Nature of Prosecution Case:-

This is a case U/s 279, 304 (A) of IPC. The brief case of the prosecution as set out in the final report U/s 173(2) Cr.PC is as follows: That On 13/02/2022 by 08:30 AM, within the limits of Checkanurani PS, when the mother of the LW1 namely Petchiammal went to work in a share auto bearing registration No.TN-58-AA-1535 driven by the accused. And the accused drove the above said vehicle in a rash and negligent manner, and applied sudden brake near Valayankulam canal, in which the said Petchiammal has fallen down from the said vehicle and sustained injuries at her

head and succumbed to her Injuries inspite of treatment . Thereby, the accused committed an offence u/s 279, 304 (A) of IPC. Hence, the accused is charged.

2. Plea of the Accused:-

On receipt of the final report, this court has taken cognizance of the offence U/s. 279, 304 (A) of IPC. Thereafter summon was issued to the accused. On appearance of the accused, copies of the final report, statements and documents were furnished to the accused. Thereafter substance of accusation for the offence U/s.279, 304 (A) of IPC was read and explained to the accused. The accused pleaded not guilty and claims to be tried.

THE EVIDENCE

The Prosecution Version

3. The prosecution has examined **PW1 to PW6** and marked **Exp-P1 to Exp-P9** on their side and prosecution side evidence was closed.

4. The prosecution has dispensed with the examination of LW5 , LW7 to LW11 and examined additional witness as PW6.

5. The **PW1** is namely Pandian who is the defacto complainant and hearsay witness and he has deposed about what he heard about the occurrence. He deposed that he gave complaint in this regard. The said complaint is marked as Exp-P1. Police examined him in this regard.

The PW1 was cross examined by the defense side.

6. The **PW2** is namely Annampillai, who is the projected eye witness and she has deposed that she has not witnessed the said occurrence. And the police didn't examined her in this regard.

The PW2 was declared hostile and cross examined by the prosecution side.

7. The **PW3** is namely Rajamani, who is the projected eye witness and she has deposed that she has not witnessed the said occurrence. And the police didn't examined her in this regard.

The PW3 was declared hostile and cross examined by the prosecution side.

8. The **PW4** is namely Yogarani who is the Hearsay witness and she has deposed what she heard about the occurrence . And the police examined her in this regard.

The PW4 was cross examined by the defense side.

9. The **PW5** is namely Pitchaiyya who is the observation Mahazar witness and he has deposed that the first signature in the observation Mahazar is that of him. And he was not aware why he signed in the same. And the police didn't examined him in this regard. The said signature of PW5 is marked as Exp-P2.

The PW5 was declared hostile and cross examined by the prosecution side.

10. The **PW6** is namely Mr. Sivailangovan who is the additional witness examined by the Prosecution and he deposed about the registration of FIR by the then Investigation officers and about the taken over of investigation by them and preparation of observation Mahazar and Rough sketch and conduction of inquest by them and filing of the final report . The said FIR is marked as **Exp-P3**. And the Observation mahazar and rough sketch is marked as **Exp-P4 & Ex.P5**. The alteration report is marked as **Exp-P6**. The Inquest report is marked as **Exp-P7**. The motor vehicle Inspection report of the said vehicle is marked as **Exp-P8**. The Autopsy report is marked as **Exp-P9**. And he had deposed that after the completion of the investigation, the he filed the Final report.

Questioning under section 313 Cr.PC

11. When the accused was questioned U/s.313 Crpc pertaining to the incriminating evidence adduced against him , the accused denied the same. On the side of accused, no oral or documentary evidence was adduced.

The Point for Determination

12. The point for determination is Whether the prosecution has proved the guilt of the accused for the offence U/s.279, 304 (A) of IPC beyond reasonable doubt ?

Rebuttal by Defence:

13. It is one of the defence of the accused that the accused is not the person, who involved in the accident and that the prosecution has not proved the same. The defence has denied all the allegations levelled against the accused. While the defence has not adduced any evidence in this regard, it has relied on the cross-examination of the prosecution witnesses to demolish their credibility.

14. The Projected eye witnesses PW2 & PW3 has deposed that they have not witnessed the said occurrence. The PW1 defacto complainant is the hearsay witness. The PW4 is the Hearsay witness. The observation Mahazar and rough sketch witness PW5 was declared hostile by the prosecution. And so the place of occurrence is not proved by the prosecution.

15. The PW6 has deposed only about the registration of FIR and investigation process by perusing the records and the same will not help the prosecution case. The testimony of PW6 is not cogent and unreliable without any corroboration from the other prosecution witness.

DISCUSSION, DECISION AND REASONS THEREOF

16. Final arguments have been advanced on behalf of the State as well as by the Ld. Counsel for the accused which have been carefully considered along with the evidence on record.

17. The charge against the accused is that On 13/02/2022 by 08:30 AM, within the limits of Checkanurani PS, when the mother of the LW1 namely Petchiammal went to work in a share auto bearing registration No.TN-58-AA-1535 driven by the accused. And the accused drove the above said vehicle in a rash and negligent manner, and applied sudden brake near Valayankulam canal, in which the said Petchiammal has fallen down from the said vehicle and sustained injuries at her head and succumbed to her Injuries inspite of treatment . Thereby, the accused committed an offence u/s 279, 304 (A) of IPC.

18. The first point for determination is that On 13/02/2022 by 08:30 AM, within the limits of Checkanurani PS, near Valayankulam canal , the accused who is driver of the share auto bearing registration No.TN-58-AA-1535 drove the above said vehicle in a rash and negligent manner, on the public way in a manner so rash Or negligent as to endanger human life or to be likely to Cause hurt or injury to any other person, thereby Committed offence under section 279 IPC?

19. The prosecution has examined six witnesses. Out of which there is two direct eye witness to speak about the rash and negligence of the accused. As per the prosecution, the PW1 is the informant and hearsay witness and she deposed what she heard about the occurrence.

20. The Projected eye witness PW2 and PW3 has deposed that they have not witnessed the said occurrence. And so the Accused is also not identified.

21. The observation mahazar witnesses PW5 has turned hostile to the prosecution and so the place of occurrence is not proved by the prosecution as per the rough Sketch **ExP.5/PW6**.

22. The PW1 and PW4 are the hearsay witness and so their evidence is inadmissible and nothing could emerge out in favour of the prosecution case. And no witness has identified the Accused as the driver of the offending vehicle which is fatal to the case of the prosecution.

23. The PW6 is the additional witness and he deposed by perusing the records, about the registration of FIR, Investigation of the case and the filing of the Final report. And the same is not corroborated by other prosecution witness to bring home the guilt of the accused.

24. To be guilty under Section 279 of IPC, the prosecution must be able To prove that the accused acted in a rash or negligent manner Endangering human life. And in the instant case it must be proved that the accused drove his vehicle in a rash and negligent manner. The meaning of “Rash” is acting or doing something without careful Consideration of the possible consequences. And negligent means Omission to do something, which a reasonable and prudent person Would do or doing something, which a prudent and reasonable Person would not do.

25. Although the informant PW1 stated in her complaint that the offending Vehicle was driven in a negligent and speedy manner due to which the accident took place but from his evidence before the court, it Can be known that he did not state Anything about the rash or negligent driving of the offending vehicle by the accused. The other PWs too did not state anything about rash or Negligent driving by the

accused. They only stated that there was an accident, but neither of them saw the incident nor stated anything about the rash or negligent driving by the accused.

26. The name of the accused is only seen in the Motor Vehicle Inspection reports. And the same cannot be considered as the conclusive proof for the identification of the Accused . As the fact of Identification of the accused itself has not been Established by the PWs, as such, the accused cannot be held guilty Under Section 279 of the Indian Penal Code as the primary factor to hold the accused guilty itself is not proved by the prosecution.

27. In order to convict a person under section 279 IPC the following ingredients are to be proved-

(a) That the accused was driving the vehicle;

(b) That the accused was driving the vehicle on a public way;

(c) that the accused was driving the vehicle rashly or negligently and

(c) That it endangered human life or to likely to cause hurt or injury to any other person.

Thus, it is apparent that there is no direct evidence to suggest that the accused had been riding the offending vehicle, let alone in a rash or negligent manner. Hence, the prosecution has failed to establish the guilt of the Accused person u/s 279 of the Indian Penal Code beyond reasonable Doubt, thereby making him not guilty under the said Section.

28. The second point for determination is whether the accused, On 13/02/2022 by 08:30 AM, within the limits of Checkanurani PS, near Valayankulam canal , the accused who is driver of the share auto bearing registration No.TN-58-AA-1535, caused the Death of the mother of the PW1 namely Petchiammal by Doing any rash or negligent act not amounting to culpable Homicide, and thereby committed offence under section 304A IPC?

29. From the PWs evidences and the Postmortem report **Exp-P9/PW6** , it can be Known that the said Petchiammal expired due to injuries sustained by her on an accident. However, for establishing the charge under Section 304-A of the Indian Penal Code, it must be proved by the prosecution beyond reasonable doubt that such death of the deceased was Caused due to rash or negligent act of the accused and in the Instant case, rash or negligent driving by the accused. Negligence Means lack of proper care on the part of the accused, his Responsibility being to drive with proper care in the absence of which he establish held guilty, in case he causes the death of any Person due to lack of such carelessness. The word “rash” means is already stated about acting or doing something without careful Consideration of the possible consequences, which in the instant Case means the accused drove rashly in spite of knowing that if he does not drive carefully, he might endanger human life and due to Lack of such consideration by the accused, the death is caused.

30. The Hon’ble Madras Highcourt in Chandran Vs. State represented by Inspector of Police, Annamalai Police Station (2021-2 L.W. (CrI.) 192) has held that “Though due to incident, the person has died the accused cannot be convicted on mere surmises and conjecture and can be convicted only on legal evidence. The law does not permit the court to punish the accused on the basis of moral conviction or suspicion alone. The burden of proof of criminal trial never shifts and the burden is always on the prosecution to prove its case beyond all reasonable doubts on the basis

of acceptable evidence. It is settled principle of criminal jurisprudence that the more serious the offence, the stricter the decree of proof required”

31. As already discussed in point for determination no.1 that the Prosecution could not establish the identification and fact of rash or negligent driving by the accused, as such, it cannot be held that the death of the Deceased was caused due to the rash or negligent driving by the Accused.

32. The conditions to be satisfied for establishing the guilt of the Accused under Section 304-A of the Indian Penal Code are :-

- (i) There must be death of a person.
- (ii) The accused must have caused such death, and
- (iii) Such act of the accused was rash and negligent And that it did not amount to culpable homicide.

All these three points have to be established together by the prosecution as they are co-related and in the absence of anyone of them renders the accused not guilty in the said Section.

33. Hence, in view of the discussions made, it can be held that the prosecution has miserably failed in establishing the guilt of the Accused under Section 304A of IPC beyond reasonable doubt, thereby making him not guilty under the said Section.

34. It is a settled proposition of law that in a criminal trial, it is for the State to prove its case beyond all reasonable doubts by leading reliable, co-gent and convincing evidence and it is for the prosecution to ensure that its case is able to stand on its own legs. The prosecution cannot derive any benefit whatsoever from the

weakness of the defence of the accused if any. Accused is entitled to the benefit of every reasonable doubt in the prosecution version.

35. It is clear that the prosecution failed to prove rashness and negligence of the accused beyond reasonable doubt. Hence, the benefit of the said doubt should be given In favour of the accused .

36. Therefore it is clear from the evidence of PW1 to PW5, that there is no evidence to connect the accused in the commission of the crime. Apart from that , the prosecution has failed to prove that the accident occurred due to the rash and negligent driving of the accused and therefore the rash and negligence act of the accused is not proved by the prosecution. Thus, neither there is any evidence for offence under 279 and 304 (A) of I.P.C is made out. The prosecution failed to prove the rash and negligence of accused. And in the absence of thereof, the Court cannot resort to conjectures, assumptions and probabilities to ascribe negligence to the accused and it also renders it unsafe to rely solely on the testimony of PW6 additional witness to convict the accused.

37. In the above circumstances this court comes to conclusion that the accident has not been caused due to the rash and negligence of the accused and hence **the accused is found not guilty for the offences U/s 279, 304 (A) of IPC.**

38. In the result as nothing incriminating is found against the accused, **the accused is hereby acquitted U/s 255(1) Cr.P.C for the offences U/s. 279, 304 (A) of IPC.** And the accused is set at Liberty. The bail bond executed by the accused shall remain in force for the period of six months from today under section 437- A Cr. P. C

39. There are no properties in this case for orders.

Dictated to Steno-typist and typed by him in computer and corrected by me and pronounced in open Court on this the 18th day of March 2026.

**Judicial Magistrate - II
Usilampatti**

Appendix:-

Prosecution side witnesses:-

- 1) PW.1— Tr.Pandian (Defacto Complainant, Hearsay witness)
- 2) PW.2 —Tmt.Annampillai (Eye witness)
- 3) PW3 — Tmt.Rajamani (Eye witness)
- 4) PW4 — Tmt.Yogarani (Hearsay Witness)
- 5) PW5— Tr.Pitchaiappa (Observation Mahazar witness)
- 6) PW6— Tr. Sivailangovan, (Police witness)

Prosecution side Exhibits:-

- 1) Exp-P1 Complaint marked through PW1 on 05-03-2026
- 2) Exp-P2 Signature of PW5 in Observation Mahazar marked through PW5 on 10 -03-2026
- 3) Exp-P3 FIR marked through PW6 on 12-03-2026
- 4) Exp-P4 Observation Mahazar marked through PW6 on 12-03-2026
- 5) Exp-P5 Rough Sketch marked through PW6 on 12-03-2026
- 6) Exp-P6 Alteration report marked through PW6 on 12-03-2026
- 7) Exp-P7 Inquest report marked through PW6 on 12-03-2026
- 8) Exp-P8 Motor Vehicle Report marked through PW6 on 12-03-2026
- 9) Exp-P9 The Autopsy report marked through PW6 on 12-06-2026

Materials objects on the Prosecution and defense side:-

NIL

Defense side witnesses and exhibits:-

NIL

**Judicial Magistrate - II,
Usilampatti.**

Note :

1. All the accused were in bail during trial.
2. No witness was held for more than 3 days for examination.
3. The Judgment of the case has been informed to the police.