

**IN THE COURT OF THE JUDICIAL MAGISTRATE NO.II, METTUR**

**Present : Thiru.D.Mylswamy, B.Com, B.L.,  
Judicial Magistrate No.II,  
Mettur.**

**Thursday, the 05<sup>th</sup> day of March – 2026**

**CC.No.366/2025**

**CNR No : TNSA18- 002931-2025**

State of Tamil Nadu  
Rep by the Inspector of police,  
Mecheri Police station,  
Cr.No.45 of 2025

... **Complainant**

//vs//

**Nithishwaran**, (aged about 26 years/2025)  
S/o. Thiruneelakandan,  
Residing at D.No.2/222-B-15, Pon Nagar,  
Mettur Taluk,  
Salem District.  
Now at Murugesh Palliya, Madav Boys Beeji,  
Bangalore, Karnataka.

... **Accused**

This case was taken on file on 21.07.2025 and came for final hearing before me on 26.02.2026 in the presence of Thiru.T.Suresh, **Assistant Public Prosecutor**, the learned counsel for the complainant and Thiru.R.Sivaraman, the learned counsel for the accused and upon hearing both side arguments and on perusing the entire records and having stood over for consideration of the said case till date, this court both the following:

(Statement as per Rule 106 of the Criminal Rules of Practice, 2019)

1	Serial Number	CC No.366/2025
2	Name of Police Station & Crime Number	Mecheri Police Station Cr.No.45 of 2025
3	Name of Accused	Nithishwaran, S/o. Thiruneelakandan

4	Occupation	Coolie
5	Residence	Residing at D.No.2/222-B-15, Pon Nagar, Mettur Taluk, Salem District. Now at Murugesh Palliya, Madav Boys Beeji, Bangalore, Karnataka.
6	Age	(aged about 26 years/2025)
7	Occurrence (Date of offence)	03.02.2025
8	Complaint	04.02.2025
9	Apprehension (Date of Arrest)	10.02.2025
10	Release on Bail (Yes/No, Date)	10.02.2025
11	Commitment (to Court)	21.07.2025
12	Commencement of Trial	04.11.2025
13	Closure of Trial	19.02.2026
14	Sentence or Order (Verdict, Punishment)	05.03.2026
15	Service of Copy of Judgment to Accused	--
16	Explanation of Delay (if any)	--

### JUDGMENT

1. The Inspector of Police of Mecheri Police has laid final report stating that on 03.02.2025 around 06.00 PM one Chinnathayi was collected grass from Manoharan Land and pass from west to east direction, while proceeding toward east side by walking, one Royal Enfiled Two wheeler bearing Registration No. TN 93 F 2305 driven by accused in rash and negligent manner and dashed against Chinnathayi and caused injury, then Chinnathayi taken to Salem Preetham Hospital and further taken to Salem Government Hospital, but Chinnathayi died despite treatment on 11.02.2025, then relating to this, one Raju lodged complaint before police station

then registered the first information report in Cr.No.45/2025 for offence under section 281, 125(a) of BNS, after completion of investigation, the accused had committed an offence punishable under section 281, 106 (1) of BNS as altered.

2. This court on perusal of the material records had on satisfaction had taken cognizance of the offence under section 281, 106 (1) of BNS. Upon appearance of the accused, copies of documents relied on the side of the prosecution was furnished to him under section 230 of BNSS. On perusal of the materials placed by the prosecution, this Court felt that the materials placed by the prosecution were sufficient and adequate to presume prima facie case has been made out against the accused and the substance of accusation explained against the accused and explained to the accused in tamil. The accused had denied the same as false case and pleaded not guilty and claimed to be tried. Thereupon, the case was adjourned for examination of the prosecution witnesses.

3. In order to prove the guilt of the accused, the prosecution had examined twelve witnesses as PW1 to PW12 and marked documents as EX.P.1 to EX.P.10.

**4. The case of the prosecution as deposed by the prosecution witness is as follows:**

PW1 Raju is a defacto complainant, he is residing at Upparapatti and grazing sheep, deceased is his mother, on 03.02.2025 around 6 P.M., his mother was collected grass and crossing road from west to east direction, at the time, the Royal enfiled two wheeler coming from Mecheri to Thoppur and dashed against Chinnathayi, due to this accident, his mother sustained head injury and taken to Salem Preetham Hospital, the said accident informed by one Velusamy. PW1 enquired by police and record his statement, then he identified the signature in complaint, the complaint marked as **EXP1**, he was enquired by police.

5. The Pw2 Velusamy is residing at Upparapatti and working as Auto driver, the deceased Chinnathayi is his relative and PW1 is also relative. On 03.02.2025 around 6 P.M., PW2 was speaking with Gunasekaran and Rajendran in Kalaimagal Sabha, the said Chinnathayi was collected grass handled in her head. Then Chinnathayi was crossing road from west to east direction, at the time, the Royal enfiled two wheeler coming from Mecheri to Thoppur and dashed against Chinnathayi, due to this accident, his relative sustained head injury and send to Hospital through Ambulance, he see the occurrence directly, he identifiy accused in open court and he was enquiry by police.

6. The PW3 Gunasekaran is residing at Upparapatti and studied in College, the deceased Chinnathayi is his grand mother. On 03.02.2025 around 6 P.M., PW3 was speaking with Velusamy and friends at Upparapatti ground, at the time his grand mother Chinnathayi was collected grass handled in her head. Then Chinnathayi was crossing road from west to east direction, at the time, the Royal enfiled two wheeler coming from Mecheri to Thoppur and dashed against Chinnathayi, due to this accident, his relative sustained head injury and send to Hospital through Ambulance, he see the occurrence directly, he identifiy accused in open court and he was enquiry by police.

7. The PW4 Nanthakumar is residing at Upparapatti and working in courier service, the deceased Chinnathayi is his grand mother and PW1 is his father. On 03.02.2025 around 6 P.M., the said Chinnathayi was collected grass handled in her head. Then Chinnathayi was crossing road from west to east direction, at the time, the Royal enfiled two wheeler coming from Mecheri to Thoppur and dashed against Chinnathayi, due to this accident, his grand mother sustained head injury and sent to Hospital through Ambulance, he heard about occurrence through Murugan, he identified the signatue in observation mahazar, he know the contents in m ahazar, the

mahazar marked as ExP2, he was enquired by police. The Pw5 selvam is residing at thoppur and doing coolie works, in the year of 2025 around 6 P.M., his mother chinnathaiye was died due to this accident, in the year of 2025 around 6 P.M., his mother was collected grass and crossing road at that time, the two wheeler coming from mettur and dashed against his mother, due to this accident, his mother sustained injury in head, leg and taken to hospital, he stood as witness in inquest, he was enquired by police.

8. The PW6 Ramu is residing at Kattuvalavu doing coolie work, in the year of 2025 around 6 P.M., his mother chinnathaiye was died due to this accident, in the year of 2025 around 6 P.M., his mother was collected grass and crossing road at that time, the two wheeler coming from mettur and dashed against his mother, due to this accident, his mother sustained injury in head, leg and taken to hospital, he stood as witness in inquest, he was enquired by police.

9. The PW7 Chinnapaiyan is residing at Vellar and doing coolie work, before one year, the said accident was occurred at bye pass road, hit by two wheeler he stood as witness in inquest, he was enquired by police. PW8 Sathayanathan is residing at Kattuvalavu doing coolie work, the deceased chinnathaiye is his cousin wife, in the year of 2025 around 6 P.M., his relative was collected grass and crossing road at that time, the two wheeler coming from mettur and dashed against his relative, later died at hospital, he stood as witness in inquest, he was enquired by police.

10. The PW9 Arul Rajamanikam is now working in Salem Preetham Hospital, he gave treatment to Chinnathaiye brought through Ambulance, he noted the injuries in accident register and refer to Salem Government Hospital, the police intimation marked as Ex.P.2, accident Register marked as Ex.P.3, he was enquired by police.

11. The PW10 Govintharaj is working as Special Sub Inspector in Mecheri and on 04.02.2025 around 02.00 P.M., received intimation from Salem Preetham Hospital and enquired one Raju and recorded his statement than registered the first information report in crime no.45/2025 for the offence under section 281, 125(a) of BNS, the first information report marked as **ExP4**. Then proceed to the place of occurrence on 04.02.2025 at around 06.00 P.M., and drawn sketch in the presence of witness, the rough sketch marked as **Ex.P5**. Then enquired the witness and recorded the statement. Then injured person taken to Salem Preetham hospital, than referred to Salem Government Hospital, but Chinnathaiye died despite treatment, after confirmed death and altered the offence under section 281, 125(a) of BNS, into under section 281, 106(1) of BNS, by alteration Report, report marked **Ex.P.6**

12. The PW11 Bharathiyar is working as a Constible in Mecheri Police station and he identified the dead body of Chinnathaiye before Doctor Kanchana and after conduct post Mortem than handed over to relatives for funeral ceremonies. PW12 Mahendran is working as Inspector in Mecheri Police station, on 04.02.2025 around 02.00 P.M., received intimation from Salem Preetham Hospital and enquired one Raju and recorded his statement than registered the first information report in crime no.45/2025. Then proceed to the place of occurrence on 04.02.2025 at around 06.00 P.M., and drawn sketch in the presence of witness and enquired the witness and recorded the statement. Then injured person taken to Salem Preetham hospital, than referred to Salem Government Hospital, but Chinnathaiye died despite treatment, then placed records before investigation officer, then investigation officer has know the reason for death, the investigation officer made inquest over dead body of Chinnathaiye in the presence of witnesses and the investigation office made inquest over dead body of Chinnathaiye in the presence of panchayatdhars, the inquest report marked as **ExP7**.

13. Then dead body sent to the post mortem, the doctor namely Kanchana was conducted post mortem on 02.05.2025 at salem government hospital and noted the injuries in post mortem certificate. The doctor namely Kanchana conducted autopsy over dead body of deceased, noted the reason for death in post mortem certificate. After confirmation of death the doctor Aghamath record death confirmation. The death confirmation marked as **Ex.P.9** The post mortem certificate of Sathish kumar marked as **ExP10**.

14. The involved two wheeler royal enfiled bearing registration no. TN 93 F 2805 sent to the motor vehicle inspection, the motor vehicle inspector namely Meenakumari were inspected and given report to the investigation officer. Report marked as **Ex.P8**. After completion of post mortem handed over the dead body for funeral ceremonies. After completion of investigation, the investigaton officer had laid down final report against the accused u/s 281, 106(1) of BNS.

15. On completion of prosecution evidence, the incriminating materials available on records, as deposed by the prosecution witnesses, have been explained and questioned the accused u/s 361 of BNSS for his answers. The accused denied his complicity of incriminating circumstances appeared against him and he has stated that it is false case foisted against him.

16. The accused stated that he has defence witness and later stated that there is no defence witness and after recording the same, this court heard both sides.

17. Both sides heard. The evidence of witnesses and material records have been perused.

18. **THE POINT FOR CONSIDERATION:**

Whether the prosecution had proved the accusation u/s 281, 106(1) of BNS as

against the accused with relevant evidence and documents beyond all the reasonable doubt ?

**19. ANSWER TO THE POINT:**

The accusation against the accused that on 03.02.2025 around 06.00 PM one Chinnathayi was collected grass from Manoharan Land and pass from west to east direction, while proceeding toward east side by walking, one Royal Enfield Two wheeler bearing Registration No. TN 93 F 2305 driven by accused in rash and negligent manner and dashed against Chinnathayi and caused injury, then Chinnathayi taken to Salem Preetham Hospital and further taken to Salem Government Hospital, but Chinnathayi died despite treatment on 11.02.2025, then relating to this, one Raju lodged complaint before police station then registered the first information report in Cr.No.45/2025 for offence under section 281, 125(a) of BNS, after completion of investigation, the accused had committed an offence punishable under section 281, 106 (1) of BNS as altered.

**20.** To prove the charges against the accused, the prosecution had relied upon the oral evidence of PW1 to PW12 and EX.P.1 to EX.P9. Before considering the fact of negligence, it is necessary to decide the fact whether the death of the deceased Chinnathaiyer was caused due to head injuries that have been sustained in the accident. EX.P10 were placed by the prosecution to prove the death of the deceased was caused due to accident. In EX.P10, the doctor namely Kanchana who had conducted the autopsy of the body of Chinnathaiye had mentioned in EX.P.10, about the injuries sustained by the deceased. The doctor namely Kanchana had opined that, the death of Chinnathaiye had happened due to head injuries. On perusal of the head injuries mentioned in EX.P10, it is proved that the sustained injuries as stated by prosecution caused due to this accident. The accused had not objected the mode of death of selvaraj. Thus, through the EX.P10, the prosecution had proved that, the

accident had caused the above said injuries and the said EX.P10 had died due to head injury sustained in the accident. During arguement, the defence side argued that he has not objected the death, but he has argued that the said accident was not caused due to negligent and rash driving of the accused. During arguement, the defence side argued that he has not objected the death of Chinnathaiye, but he has argued that the said accident was not caused due to negligent and rash driving of the accused.

**21.** Further, on perusal of **EX.P.8** it comes to know that Two wheeler royal enfield bearing Registration No.TN 93 F 2805 that had involved in the accident had sustained damages mentioned in report. The motor vehicle inspector had opined that there was no mechanical defect at the time of occurrence of Two wheeler royal enfield vehicle. Thus, the accident had not taken place due to the mechanical defect of two wheeler involved in the occurrence is also proved by the prosecution. Thus, the accident had not taken place due to the mechanical defect of two wheeler involved in the occurrence is also proved by the prosecution.

**22.** Now, the point for consideration is that whether the accident had occurred due to rash and negligent driving of the vehicle by the accused. To determine the point of negligence, the oral evidence of the ocular witnesses who had witnessed the accident is important. The Prosecution side argued that Pw2 and Pw3 are cited as ocular witness, both deposed similarly that chinthaiye was crossing from west to east direction, the royal enfield dashed against chinnathaiye and caused accident, both claim to see the occurrence directly. The Pw1 corroborate the presence of Pw1 at spot, the Pw1 heard about occurrence through Pw2 and his name stated in chief examination. The defence side argued that Pw2 and Pw3 are close associate to the deceased chinthaiye, the Pw2 is close relative and the Pw3 is grand son of deceased chin thaiya, both are interested witness, their evidence could not be considered, because they are all set up by prosecution.

23. Though the Pw2 and Pw3 are interested witness, but on such ground the said witness could not be way out from this case, but on go through careful scrutnize the said ocular witness should be analyshed. The Pw2 and Pw3 are close relatives, the Pw2 and Pw3 claim both were speaking in kalaimagal saba with rajendran, the Pw2 particularly stated about name of Pw3 and rajendran, the Pw2 testified that he seen the occurrence when two wheeler hit against chinthaiye, the said accident was caused due to rash driving of the accused. The defence side pointed and dispute the presence of pw2 and Pw3 at spot, the said accident was caused during dark night time, the deceased chinthaye was handled grass bundle in her head, crossing the road from west to east direction.

24. During police enquiry, the Pw2 stating that chinthaiye met accident while walking in road, but not crossing the road from west to east direction, the Pw2 denied that he has not stated during police enquiry that chinnathaiye not met accident while crossing the road from west to east direction, the said discrepancies caused doubt about presence of Pw2, the said variation is minor discrepancies. This court viewed the other fact to raise doubt by defence side.

25. The Pw3 testify that he was speaking with Pw2 in sabha, during cross examination he see the occurrence after heard noise and after 5 minutes he see the occurrence, the extract portion of Pw3 herewith “ விபத்து சத்தம் கேட்டவுடன் சென்று பார்த்தேனா என்றால் ஆமாம். எவ்வளவு நேரம் கழித்து பார்த்தேன் என்றால் 5 நிமிடம் கழித்து பார்த்தேன். 5 நிமிடத்திற்கு முன்பாக என்ன நடந்தது என்று எனக்கு தெரியாது என்றால் ஆமாம். அப்போது என்ன செய்து கொண்டிருந்தோம் என்றால் பேசிக் கொண்டிருந்தோம்” which seems that after 5 minutes that after heard noise and see the occurrence. Then Pw2 claim that he see the occurrence directly when hit the two wheeler against chinathaiye. The said variation that one witness speak that after 5 minutes see the occurrence and on other side, the Pw2 speak that after immediate see

the occurrence directly, the said discrepancies caused doubt about presence of Pw2 and Pw3.

26. The Pw2 and Pw3 were speaking with rajendran, the investigation officer has not cited the said rajendran as witness in this case, the other fact that consider the age of deceased chinthaiye attained more than 70 years, the said chinthaiye collected grass under 5 feet from spot, thenafter collected grass and lift in her head and on less chance to watch the running vehicle and invite the accident. The presence of Pw2 and Pw3 successfully disputed by both witness, except Pw2 and PW3 no other third party witness cited by prosecution. The Pw1 heard about accident through Pw2 and rush to spot, then lodged complaint on heard about accident, the said first information based on information given by Pw2, the defence side disputed the presence of Pw2, thus the case is not proved the case beyond reasonable doubt. **Thus the offence under section 281 of BNS is not proved beyond reasonable doubt against the accused.**

27. The Pw1 namely senthil kumar were hearsay cum inquest witness, he was deposed similarly what he heard, the said witness is son of deceased, his evidence is hearsay witness, thus evidence does not speak about negligence on part of the accused. He confirmed the death was caused due to accident, his deposition confirmed the death was caused due to accident. The prosecution has failed to prove the negligent driving of the accused. **Thus the offence under section 106 (1) of BNS is not proved beyond reasonable doubt against the accused.**

28. In the result, this Court holds that the prosecution had not proved the offence u/s 281, 106 (1) of BNS as against the accused beyond reasonable doubt and the accused is acquitted u/s 278 (1) of BNSS.

29. No material object produced on either side, hence no need to discuss about property order.

Directly typed by me in the Computer and corrected by me and the Judgment pronounced in the open court on the 04<sup>th</sup> day of March 2026.

**Judicial Magistrate No.II,  
Mettur.**

**Prosecution side witnesses:-**

PW1	Raji
PW2	Velusamy
PW3	Gunasekaran
PW4	Nandakumar
PW5	Selvam
PW6	Ramu
PW7	Chinnapaiyan
PW8	Sathiyathan
PW9	Arunrajanickam
PW10	Govindaraj
PW11	Bharathiyar
PW12	Mahendiran

**Prosecution side Exhibits:- Judicial Form No.68**

S.No of the exhibit	Description of the exhibit and its date	Date,When the exhibit was filed in the case	How marked	By Whom filed	Remarks
1.	Complaint statement	04.11.2025	Exhibit P1	Pw1	Original

Page numbers

2.	Observation mahazar	04.11.2025	Exhibit P2	Pw4	Original
3.	Police intimation	20.01.2026	Exhibit P3	Pw9	Original
4.	Accident Register	20.01.2026	Exhibit P4	Pw9	Original
5.	First information report	06.02.2026	Exhibit P5	Pw10	Original
6.	Rough sketch	06.02.2026	Exhibit P6	Pw10	Original
7.	Alteration report	06.02.2026	Exhibit P7	Pw10	Original
8.	Inquest Report	19.02.2026	Exhibit P8	Pw12	Original
9.	Motor vehicle inspection report TN 93 F 2805	19.02.2026	Exhibit P9	Pw12	Original
10.	Death confirmation report	19.02.2026	Exhibit P10	Pw12	Original

**Material Objects:-** -Nil-

**Defence side Witness:-** -Nil-

**Defence side Exhibits:-** -Nil-

**Judicial Magistrate No.II,  
Mettur.**

**Note:**

- 1) During the trial of the case, the accused is on bail and the bail bond executed by the accused shall stand cancelled.
- 2) No witnesses had been called for evidence more than three days.
- 3) Result of the judgment had been informed to the Prosecution/concerned police.