

**IN THE COURT OF THE IV METROPOLITAN MAGISTRATE /
IV JUDICIAL MAGISTRATE,
SAIDAPET, CHENNAI-15.**

Present: Mrs. Anitha Anand, M.B.A., L.L.M.,
IV Metropolitan Magistrate /
IV Judicial Magistrate
Wednesday, the 11th day of March 2026



Calendar Case No.2282/2022

1.	Complainant	State represented by the Inspector of Police, R-4 Pondy Bazar Traffic Investigation Wing, Chennai.
2.	Number of First Information Report	R-4 Pondy Bazar Traffic Investigation Wing FIR No.109/2022 under Sections 279, 337 of the Indian Penal Code, 1860 (IPC in brevity)
3.	Name of the Accused Person	Sivakumar, aged 49 years, S/o. Periyasamy, No.01, N.N.Street, VSA Nagar, Javakar Nagar, Chennai - 82.
4.	Accusation against Accused Person	under Sections 279, 338 IPC
5.	Plea of the Accused Person	Not guilty
6.	Decision of the court	Accused found not guilty.
7	Result	Accused acquitted under Section 255(1) of the Code of Criminal Procedure, 1973 (Cr.P.C. in brevity) of the alleged offences under Section 279, 338 of IPC.

Final report filed against the Accused to take cognizance of the offence under Sections 279, 338 of the IPC and cognizance of the offences under Sections 279, 338 of the IPC taken on 11.08.2022 to try the Accused. After hearing this case finally on 06.03.2026 in presence of both sides, upon perusal of evidence and hearing argument on both sides, this court pronounces the following judgment.

Assistant Public Prosecutor : Mr.K. Namburajan

Defence Counsel : M/s. Jesus Moris Ravi, J. Pravin and

G.R. Chandramohan

JUDGMENT

1. Final Report:

1.1. The Inspector of Police, R-4 Pondy Bazar Traffic Investigation Wing, filed the final report stating that on 04/05/2022 at 12:10 hours, the accused, Sivakumar, aged 49 years, while driving his Maruti Ertiga car bearing Registration No. TN 05 AQ 1441 from West to North in a rash and negligent manner near Dindigul Thalapakattu Hotel, V.N. Road, T. Nagar, collided with a two-wheeler bearing Registration No. TN 09 BM 3787, ridden by the victim Vadivel Murugan, aged 55 years. Due to the impact, the two-wheeler fell down and the victim sustained grievous injuries, namely a fracture to his left knee and a bleeding injury to his right elbow.

1.2. Hence, the accused is alleged to have committed the offences of rash and negligent driving on a public way and causing grievous injury to the motorcyclist by negligence, punishable under Sections 279 and 338 IPC.

2. Upon receiving the final report from Mr. Thirumani, Sub-Inspector of Police, Traffic Investigation Wing, Pondy Bazar, this Court took cognizance of the offences under Sections 279 and 338 IPC. Upon the appearance of the accused, copies of the final report and the documents relied upon by the prosecution were furnished to him under Section 207 CrPC. Thereafter, the accusations under Sections 279 and 338 IPC were explained to the accused under Section 251 CrPC. As the accused pleaded not guilty, the Court proceeded with the trial.

3. Case of the Prosecution:

3.1. The defacto complainant, Vadivelmurugan, aged 55 years, son of Ganesan, is the victim, residing at No.19/17, South Boag Road, T. Nagar, Chennai – 17. He stated in his complaint that he had been residing at the above address and was running a grocery store. On 04.05.2022 at 12:10 P.M., while he was riding his motorcycle bearing Registration No. TN 09 BM 3787 near Thalapakatti Hotel, Venkatnarayana Road, T. Nagar, a car bearing Registration No. TN 05 AQ 1441 collided with his motorcycle and caused the accident, in which he sustained a grievous internal injury to his left knee and a bleeding

injury to his right elbow. He was taken to Royapettah Government Hospital by a 108 ambulance with the assistance of the public. While undergoing treatment in the hospital, he gave a complaint against the driver of the car bearing Registration No. TN 05 AQ 1441.

3.2. Upon receiving the complaint from P.W.1 / defacto complainant, Mr. Thirumani, Sub-Inspector of Police, registered FIR No.109/2022 under Sections 279 and 337 IPC on 04/05/2022 at 19:00 hours against the driver of the car bearing Registration No. TN 05 AQ 1441. After investigation, he altered the charge from Section 337 IPC to Section 338 IPC and submitted the final report under Sections 279 and 338 IPC against the accused on 16/06/2022.

4. Observation on Case Records:

On perusal of the case records, it is noted that the accused was arrested and released on bail by the police on 11/05/2022. No property was seized in this case.

5. Evidence on the Side of the Prosecution:

5.1. On the side of the prosecution, seven witnesses were cited to prove the case. The prosecution examined four witnesses as P.W.1 to P.W.4. The prosecution proceeded under Section 294 CrPC to mark the formal documents of experts, dispensing with their oral examination.

P.W.1 – Defacto complainant / Victim

P.W.2 – Ocular witness

P.W.3 – Witness to Observation Mahazar

P.W.4 – Investigating Officer

5.2. Exhibits P1 to P10 were marked:

- Ex.P1 – Complaint, marked through P.W.1
- Ex.P2 – Observation Mahazar, marked through P.W.2
- Exs.P3 to P6 – First Information Report, Rough Sketch, Accident Register Extract, and Wound Certificate, marked through P.W.4, Sub-Inspector of Police
- Ex.P7 series – Copies of the Registration Certificate and Insurance Policy of the Maruti Ertiga car bearing Registration No. TN 05 AQ 1441 and the Driving Licence of the accused, marked through P.W.4.
- Exs.P8 and P9 – Motor Vehicle Inspection Reports of both the Maruti Ertiga car bearing Registration No. TN 05 AQ 1441 and the TVS Max motorcycle bearing Registration No. TN 09 BM 3787, marked through P.W.4
- Ex.P10 – Charge Alteration Report, marked through P.W.4

6. Statement under Section 313(1)(b) CrPC:

After the closure of the prosecution evidence, when the accused was examined with regard to the incriminating circumstances under Section 313(1)(b) Cr.P.C., he denied the allegations and claimed that a false case had been foisted against him. The accused examined himself as D.W.1, and no exhibit was marked on the defence side.

7. Appreciation of Evidence:

7.1. P.W.1, Vadivelmurugan, is the defacto complainant and the victim. In his examination-in-chief on 12.12.2023, he stated that on 04.05.2022 at 12:00 noon, while he was proceeding on his motorcycle after delivering groceries, the accused, who came by car out of a petrol bunk after filling fuel, hit the left side of his motorcycle. He sustained fractures to his left leg. The car driven by the accused was blue in colour bearing registration number 1441. The accused then took him into his car and, while attempting to take him to the hospital, a 108 ambulance took him to Royapettah Government Hospital. He underwent treatment in the hospital for 20 days. Thereafter, he gave the complaint in the hospital when the police came there.

7.2. In the cross-examination after recall on 12.08.2025, he stated that he was proceeding from Venkatnarayana Road to South Boag Road. After delivering groceries in Silver Park, he was returning to his shop on South Boag

Road when the accident occurred. His vehicle was damaged, and its headlight and handle were specifically damaged. The accident took place near Thalapakatti Biriyan Shop and the petrol bunk. He specifically stated that the car came from the petrol bunk and hit the left side of the motorcycle, due to which he fell on his right side.

7.3. It was suggested by the defence that his vehicle did not have a valid insurance policy, that its brake capacity was low, and that he had previously undergone surgery on his injured leg. He denied these suggestions. However, he admitted that the accused accompanied him when he was admitted to the hospital and stated that a surgery was performed by fixing a plate, and he was discharged 25 days after the surgery. It was finally suggested that he negligently came when the vehicle came out of the petrol bunk and that the accident occurred due to his negligence.

7.4. P.W.2, Jeyabal, is cited as an ocular witness in this case. In his examination-in-chief on 12.12.2023, he stated that he was working in a provision store located on the right side of the petrol bunk on Venkatnarayana Road. He knew the victim, who used to come there frequently. The victim was running a provision store in Porur. On 04.05.2022 at 12:00 noon, when he was standing near the shop, he saw the victim coming from West to East on Venkatnarayana Road, and then an Innova car came from the petrol bunk and

collided with his vehicle. The Innova was driven by the accused and its registration number was 1441. The victim sustained injury to his left leg and was taken to Royapettah Government Hospital by a 108 ambulance.

7.5. It is specifically noted here that the car which had allegedly caused the accident was described as an Ertiga, but P.W.2, cited as an ocular witness, referred to it as an Innova.

7.6. In the cross-examination after recall on 09.07.2025, he stated that the two-wheeler driven by the victim was coming from West to East towards Thalapakatti Hotel at the time of the occurrence and that the car collided with the back side of the two-wheeler when it came out of the petrol bunk. He further stated that someone from the public called the 108 ambulance, and the accused lifted the victim and sent him by ambulance. He also stated that the two-wheeler was a TVS brand vehicle and that the accident occurred when the car turned out of the petrol bunk. The defence suggested that the two-wheeler came in the opposite direction, which he denied.

7.7. P.W.3, Surya, is the witness to the Observation Mahazar. In his examination-in-chief on 24.05.2024, he stated that when he went out from his house to have food at 07:00 P.M. on 04.05.2022, he saw two policemen observing the scene of occurrence where the accident had occurred on the morning of the same day. He signed the Observation Mahazar as a witness. In

the cross-examination after recall on 09.07.2025, nothing emerged to rebut his statement recorded in the examination-in-chief.

7.8. P.W.4, Mr. Sundaram, Sub-Inspector of Police, is the present Sub-Inspector of Police, and he deposed regarding the investigation based on the case file, since the Investigating Officer Mr. Thirumani had retired two years earlier and was not in good health and had settled in his native place in Kanyakumari District.

7.9. In his examination-in-chief on 13.02.2026, he deposed that Mr. Thirumani was the Investigating Officer in this case and, due to illness, he was unable to depose before this Court. Upon receiving information from Royapettah Government Hospital, Mr. Thirumani went to the hospital and received the written complaint from P.W.1 / victim. Thereafter, he came to the police station and registered FIR No.109/2022 under Sections 279 and 337 IPC at 19:00 hours.

7.10. He thereafter observed the scene of occurrence at 14:00 hours on the same day and prepared the Observation Mahazar and Rough Sketch in the presence of P.W.3 Surya and another witness, Balamurugan. He recorded the statement of Dr. Palanikumar of Royapettah Government Hospital and obtained the Accident Register Extract and Wound Certificate, which certified the injury as grievous since the victim had sustained a fracture to his right leg.

7.11. He further stated that he collected the Registration Certificate and Insurance Policy of the Maruti Ertiga car which caused the accident from the accused on 11.05.2022, along with the driving licence of the accused. The accused was arrested and released on bail at the police station on the same day.

7.12. He then collected the Motor Vehicle Inspection Reports of both vehicles from the Motor Vehicle Inspector Mr. Jeyaganesh. As per the reports, the accident did not occur due to any mechanical defect in either vehicle.

7.13. In the inspection report of the Maruti Ertiga car, it was noted that the front right-side bumper was damaged, the left-side rear-view mirror was damaged, scratches were present on the front left side and rear left passenger door, and scratches on the show set were noted.

7.14. In the inspection report of the TVS Max, it was noted that the rear wheel was bent, the front fork was bent, the front left-side and right-side footrests were damaged, the handlebar was bent, and the front cross bar was damaged. After completing the investigation, he filed the final report under Sections 279 and 338 IPC against the accused on 16.06.2022.

7.15. In the cross-examination after recall on 20.02.2026, he stated that he gave evidence before this Court upon perusal of the case file. He further admitted that, as per the records, the Ertiga car had hit the two-wheeler of the victim during the accident, and it is true that the two-wheeler did not have a

valid insurance policy at the time of the accident. It was suggested that the victim had already sustained a fracture earlier and had undergone treatment in the hospital, which he denied.

7.16. The accused examined himself as D.W.1. He stated that he went to the petrol bunk at 12:00 noon on 04.05.2022, and while returning after filling fuel for his Maruti Ertiga car, he noticed a crowd. When he turned towards the left, a TVS motorcycle came in the opposite direction in order to pass him. He tried to stop his car, but the two-wheeler hit the bumper of his car. He immediately got down and saw the motorcyclist. He gave intimation to the police and ambulance from his mobile phone. As the ambulance was delayed, he took the injured person in his car at the latter's request.

7.17. In the cross-examination on the same day, the prosecution suggested that the victim did not come in the opposite direction since the entire stretch of the road was divided by a centre median. D.W.1 stated that the victim came from an arterial road joining the main road, and that the arterial road was situated two buildings after the Thalapakatti Hotel. The prosecution further suggested that no such arterial road was shown in the rough sketch, to which the accused stated that the rough sketch was not correct.

7.18. It was finally suggested by the prosecution that the road was only 30 feet wide and that the accused did not observe the western side while coming out

of the petrol bunk. The accused denied the suggestion. When the prosecution lastly suggested that the victim had been hospitalised for more than 25 days, the accused pleaded innocence.

8. Points for Determination

1. Whether on 04.05.2022 at about 12:10 hours, the accused Sivakumar, while driving the Maruti Ertiga car bearing Registration No. TN 05 AQ 1441 near Thalapakattu Hotel, Venkatnarayana Road, T. Nagar, drove the vehicle in a rash and negligent manner so as to endanger human life?

2. Whether due to the said rash and negligent driving of the accused, the motorcycle ridden by P.W.1 Vadivelmurugan met with an accident and P.W.1 sustained grievous injuries?

3. Whether the prosecution has proved the guilt of the accused beyond reasonable doubt for the offences punishable under Sections 279 and 338 IPC?

9. Discussion of Evidence and Findings

9.1. According to the prosecution, on 04.05.2022 at about 12:10 hours, the accused Sivakumar, while driving his Maruti Ertiga car bearing Registration No. TN 05 AQ 1441, came out of a petrol bunk near Dindigul Thalapakattu Hotel on

Venkatnarayana Road, T. Nagar, in a rash and negligent manner and collided with the motorcycle bearing Registration No. TN 09 BM 3787, ridden by P.W.1 Vadivelmurugan, who was proceeding on the road after delivering groceries.

9.2. Due to the impact of the collision, the motorcycle fell down and P.W.1 sustained grievous injuries, namely fracture to his left knee and bleeding injury to his right elbow. He was immediately taken to Royapettah Government Hospital by a 108 ambulance. While undergoing treatment in the hospital, he lodged a complaint against the accused.

9.3. On the basis of the complaint, FIR No.109/2022 was registered under Sections 279 and 337 IPC on 04.05.2022 at 19:00 hours, and after investigation the charge was altered to Section 338 IPC as the injury sustained by the victim was found to be grievous in nature. After completing the investigation, the police filed the final report against the accused under Sections 279 and 338 IPC. To prove the case, the prosecution examined P.W.1 to P.W.4 and marked Ex.P1 to Ex.P10.

9.4. The defence of the accused is one of total denial. According to the accused, he had gone to the petrol bunk on 04.05.2022 at about 12:00 noon to fill fuel for his Maruti Ertiga car. After filling fuel, when he was returning from the petrol bunk, he noticed a crowd and slowly turned towards the left. At that

time, a TVS motorcycle came from the opposite direction, and though he attempted to stop his car, the motorcycle hit the bumper of his car.

9.5. The accused further stated that he immediately got down from the car, informed the police and ambulance through his mobile phone, and as the ambulance was delayed, he attempted to take the injured person to the hospital in his car at the latter's request. The defence further suggested that the victim himself was negligent while riding the motorcycle, and that the accident occurred due to the fault of the victim and not due to any rash or negligent act on the part of the accused.

9.6. **Point Nos.1 to 3** - Since all the points are interconnected, they are taken up together for discussion. The prosecution mainly relies upon the evidence of P.W.1 (victim), P.W.2 (ocular witness), and the documentary evidence such as the FIR, rough sketch, accident register extract, wound certificate and motor vehicle inspection reports.

9.7. P.W.1 is the injured witness and defacto complainant. In his evidence, he stated that on 04.05.2022 at about 12:00 noon, while he was proceeding on his motorcycle after delivering groceries, the accused came out of the petrol bunk in a car and hit the left side of his motorcycle, due to which he fell down and sustained fractures to his left leg. He further stated that the accused took him into his car and attempted to take him to the hospital, but he was later taken to

Royapettah Government Hospital by a 108 ambulance, where he underwent treatment and surgery.

9.8. The testimony of P.W.1 clearly establishes that the accident had occurred and that he sustained injuries in the said accident. However, in the cross-examination, certain aspects emerge which require careful scrutiny. P.W.1 admitted that the accused accompanied him to the hospital. Further, the defence suggested that the accident occurred due to the negligence of P.W.1 when the accused was coming out of the petrol bunk.

9.9. Though P.W.1 denied the suggestion, his evidence alone is not sufficient to conclusively establish the manner in which the accident occurred.

9.10. P.W.2 was examined as an ocular witness. In his chief-examination, he stated that the victim was proceeding on the road and a car came from the petrol bunk and collided with the motorcycle. However, there are material inconsistencies in his evidence. Firstly, the prosecution case is that the vehicle involved in the accident was a Maruti Ertiga car, whereas P.W.2 stated that it was an Innova car. Secondly, he also stated that the car collided with the back side of the motorcycle, which differs from the version of P.W.1, who stated that the car hit the left side of the motorcycle. These contradictions create serious doubt regarding the reliability of the testimony of P.W.2 as an eyewitness to the occurrence.

9.11. P.W.3 is only a mahazar witness who stated that he saw the police preparing the observation mahazar at the place of occurrence. His evidence does not throw any light on how the accident occurred.

9.12. P.W.4, the present Sub-Inspector of Police, deposed based on the case records since the original Investigating Officer had retired and was unable to appear before the Court. His evidence only establishes the procedural aspects of the investigation such as registration of the FIR, preparation of the observation mahazar, and collection of documents.

9.13. However, P.W.4's testimony itself cannot prove the rash and negligent act of the accused. The Motor Vehicle Inspection Reports (Ex.P8 and Ex.P9) reveal that there was no mechanical defect in either vehicle, which indicates that the accident was not due to any mechanical failure. However, the inspection reports only show the damages sustained by the vehicles and do not conclusively establish which party was negligent. The Wound Certificate (Ex.P6) proves that the victim sustained grievous injury, namely a fracture, which satisfies the requirement under Section 338 IPC. However, the prosecution must still prove that the injury was caused due to the rash and negligent act of the accused.

9.14. The accused examined himself as D.W.1 and stated that the motorcycle came from the opposite direction and hit the bumper of his car when

he was coming out of the petrol bunk. He further stated that he immediately informed the police and ambulance and attempted to help the injured person.

9.15. Though the defence version need not be proved beyond reasonable doubt, it creates a reasonable doubt regarding the prosecution case, particularly in view of the contradictions in the evidence of the prosecution witnesses.

9.16. The evidence on record clearly establishes that an accident occurred and that the victim sustained grievous injuries. However, the prosecution must further prove that the accident occurred solely due to the rash and negligent driving of the accused.

9.17. In the present case, the evidence of the only independent eyewitness P.W.2 suffers from material contradictions, particularly regarding the type of car involved and the direction of the vehicles. These inconsistencies weaken the prosecution case. Further, the fact that the accused immediately assisted the victim and attempted to take him to the hospital also indicates that he did not attempt to evade responsibility.

9.18. In view of the contradictions and inconsistencies in the prosecution evidence, the Court is of the view that the prosecution has failed to prove beyond reasonable doubt that the accused drove the vehicle in a rash and negligent manner. Accordingly, **Point Nos.1 to 3 are answered in favour of the accused.**

10. Conclusion

10.1. From the foregoing discussion, this Court finds that though the prosecution has established that an accident occurred and that the victim sustained grievous injuries, it has failed to conclusively prove that the accident occurred due to the rash and negligent driving of the accused.

10.2. The inconsistencies in the testimony of the prosecution witnesses create reasonable doubt regarding the prosecution case, and the benefit of such doubt must necessarily go to the accused.

11. Result

In the result, the accused Sivakumar is found not guilty of the offences punishable under Sections 279 and 338 IPC and is acquitted under Section 255(1) CrPC.

The bail bond executed by the accused shall stand cancelled, and the sureties, shall be discharged.

Dictated by me to the Steno-typist and directly computerized by her, corrected and pronounced by me in the open court on this 11th day of March 2026.

IV Metropolitan Magistrate /
IV Judicial Magistrate
Saidapet, Chennai-15.

Appendix**Prosecution Witnesses:**

<u>S.No.</u>	<u>Witnesses</u>	<u>Name of the Witnesses</u>
1.	P.W.1	Vadivel Murugan
2.	P.W.2	Jeyabal
3.	P.W.3	Surya
4.	P.W.4	Sundaram, Investigating Officer

Prosecution side Exhibits:

<u>S.No.</u>	<u>Exhibits</u>	<u>Date</u>	<u>Description of the document</u>
1.	Ex.P1	04.05.2022	Complaint
2.	Ex.P2	04.05.2022	Observation Mahazar
3.	Ex.P3	04.05.2022	First Information Report in FIR No.109/2022
4.	Ex.P4	04.05.2022	Rough Sketch
5.	Ex.P5	04.05.2022	Accident Register extract
6.	Ex.P6	04.05.2022	Wound Certificate
7.	Ex.P7 series		Registration Certificate and Insurance Policy of the Maruti Ertiga car bearing Registration No. TN 05 AQ 1441 and Driving Licence of the accused

8.	Ex.P8	13.05.2022	Motor Vehicle Inspection Report of Maruti Ertiga car bearing Registration No. TN 05 AQ 1441
9.	Ex.P9	12.05.2022	Motor Vehicle Inspection Reports of TVS Max motorcycle bearing registration number TN 09 BM 3787
10.	Ex.P10	11.05.2022	Charge alteration report

Material Objects: Nil

Defence side Witnesses :

<u>S.No.</u>	<u>Witness</u>	<u>Name of the Witness</u>
1.	D.W.1	Sivakumar

Defence side Exhibits : Nil

IV Metropolitan Magistrate /
IV Judicial Magistrate,
Saidapet, Chennai-15.