

KADK310022082023



**IN THE COURT OF THE 1st ADDITIONAL SENIOR CIVIL
JUDGE AND JMFC, PUTTUR, D.K.,**

Present :- Shri. Devaraj. Y.H B.A.L., LLB.,

1st Addl. Senior Civil Judge and JMFC, Puttur, D.K.,

Dated this the 9th Day of July 2026

C.C. No. 1100/2023

<u>Complainant</u>	:	State of Karnataka (By Puttur Rural Police Station) (By Asst. Public Prosecutor)
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V/S

<u>Accused</u>		Mahammad Fayaz, S/o. Fakrudeen, Aged about 40 years, R/o. #6-7/9 Jainab Manjil Old Gate House, Uppinangady Village and Post, Puttur Taluk. (Rep. By: Advocate Shri. A.S.M.P.)
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1.Date of commencement of offense	;	23.09.2023
2.Date of report of the	;	23.09.2023

offense		
3.Date of arrest of the accused	;	Accused have not been arrested
4.Name of the Complainant	;	Shri. Mahammad Nazeeb
5.Date of recording evidence	;	01.07.2025
6.Date of closing of evidence	;	09.06.2026
7.Offense complained of	;	Section 279 & 304(A) of IPC.
8.Opinion of the Judge	;	As per the final Order
9:Complainant represented by	;	Assistant Public Prosecutor
10.Accused represented by	;	Shri. A.S.M.P. Advocate.

(Devaraj.Y.H)
I ADDL. SR. CIVIL JUDGE & JMFC
PUTTUR

JUDGMENT

The Police Inspector, Puttur Rural Police Station has filed charge-sheet against the Accused for the offences punishable under Section 279 & 304(A) of IPC.

2. The case of the prosecution in brief is as under:

It is alleged that on 23-09-2023 at 16:25 hours, the

accused, while driving the Eco Car KA-19-MG-5294 belonging to CW-11, with rashness and negligence on the Bellare Public Tar Road near Keyyuru School, Keyyuru Village, Puttur Taluk, from Bellare side towards Kumbra side, drove the vehicle completely on the left side and hit school boy Mohammed Adil who was walking on the mud road on the right side of the said road from Kumbra side towards Bellare side. As a result of the accident, the child Mohammed Adil sustained grievous head injuries and due to this he died.. Hence charge sheeted under Sec. 279 and, 304-A of IPC.

3. Cw-1 lodged written complaint to the Station House Officer/Cw-12 of Puttur Rural Police station on 23.09.2023 of the alleged incident who registered FIR against the accused for the offence punishable under Section 279 and 304-A of IPC and later on completion of the investigation the Cw-19/ Police Inspector of Puttur Rural Police Station has filed charge-sheet against the Accused for the offenses punishable under section under Section 279 and 304-A.

4. The court has taken the cognizance of the offence

secured the presence of accused & he was enlarged on Bail. Copies of the prosecution papers were supplied to the accused.

5. Plea of the accused recorded. Accused pleaded not guilty and claimed to be tried. Hence the matter posted for the prosecution side evidence.

6. In order to bring home the guilt of the accused persons, prosecution has examined ten witnesses as Pw-1 to Pw-10 out of 19 witnesses, and got marked 11 documents as Ex.P-1 to Ex.P-11. On considering the prayer of Assistant Public Prosecutor Cw-2 to Cw-6, Cw-13 to Cw-15 & Cw-17 were given up from the prosecution side evidence.

7. After completion of the evidence of prosecution statement of the Accused as per Sec 313 of Criminal procedure code has been recorded. Incriminating evidence appeared against the Accused read over and explained to him, he denied all the incriminating evidence led against him in the prosecution side evidence.

8. Further accused furnished surety in compliance as

per Section 437-A of Criminal Procedure Code. Hence the matter posted for arguments.

9. Heard both Assistant Public Prosecutor and counsel for the Accused persons on merits. On hearing the arguments and on perusal of materials on record the following points arisen for my determination.

POINTS

1. Whether the prosecution proves beyond on all reasonable doubt that on 23-09-2023 at 16:25 hrs, drove CW-11's Eco Car KA-19-MG-5294 with rashness and negligence on the extreme left side of Bellare Public Tar Road near Keyyuru School and caused the accident and, thereby committed an offence punishable under Section 279 of IPC?

2. Whether the accused persons on the same day, place and time, due to the said accident, school boy Mohammed Adil sustained grievous head injuries and died at 7.25 p.m at First

Neuro Hospital, Mangaluru on the same day while he was taking treatment and, thereby committed an offence punishable under Section 304-A IPC?

3. What order?

10. My findings to the above said points are as under:

Point No. 1 and 2: In the Negative

Point No.3: As per the final order
for the following.

REASONS

11. **Point No.1 and 2:** BBoth these points interconnected to each other as such they are taken up together for common discussion to avoid repetition of facts and the evidence.

12. Burden cast on the prosecution to prove the guilt of the accused for the offenses punishable under section 279 & 304-A of IPC.

13. In order to bring home the guilt of the accused persons, prosecution has examined ten witnesses as Pw-1 to Pw-10 and got marked 11 documents as Ex.P-1 to Ex.P-11.

14. On perusal of the documentary evidence, Ex.P-1 is the Ex.P-1 is the Copy of photographs, Ex.P-2 is the Complaint, Ex.P-3 is the Spot mahazar, Ex.P-4 is the Rough Sketch, Ex.P-5 is Indemnity bond, Ex.P-6 is the FIR, Ex.P-7 is the Motor Vehicles Accident Report, Ex.P-8 is the Notice issued under Sec. 133 of IMV Act, Ex.P-9 is the Reply given to the notice issued under Sec. 133 of IMV Act, Ex.P-10 is the Post mortem report and Ex.P-11 is the Certificate under Sec.65(B) of Indian Evidence Act.

15. Pw-1 is the eye witness with regarding to the alleged accident. In his chief examination he deposed that 'On 23.09.2023, I was taking passengers in an auto from Madavu side towards Kumbra. While returning, near Keyyuru Village School, an Eco Car coming from Bellare side towards Kumbra was being driven negligently on the left side and hit a boy who was walking on the main road. At that time it was 4:25 PM. Due to the impact, the boy fell on the road. I parked the auto on the side of the road and went to the place where the boy had fallen. People had gathered there. The boy had a bleeding

injury to his head and was not in a position to speak. Later, Najib and Haris who were there took the boy in a vehicle towards Puttur for treatment. I came to know that he was first taken to Puttur City Hospital and from there he was taken to First Neuro Hospital for further treatment. On the same day at 7:25 PM, I came to know that the boy had died. The name of the deceased boy is Adil. The name of the person who drove the car and hit him is Fayaz. Due to the fault of the car driver, Mohammed Adil met with an accident and died’.

16. Eventhough Pw-1 supported the case of the prosecution and deposed with regarding to the rash and negligent driving of the Car by the accused due to which Mohammed Adil got injured and later died in the hospital due to the said injuries, but in the cross examination he totally turned hostile towards the statements made by him in his chief examination with regarding to the accident is concerned. He deposed that ‘ I came to know about the accident within 5-10 minutes of the incident. After 10 minutes I went to the place where the accident had occurred. I do not know who

took the injured person to the hospital. The school is about 50 meters away from the place of accident. I do not know how far Bharath's shop is from the place of accident. The name of the accused was being told by the people who were present at the place of accident. I do not know whether the vehicle which caused the accident was present at the place of accident or not. I came to know that the injured boy was taken to Puttur City Hospital. I came to know about the death of the injured boy on the same day. My friend informed me about it. The boy died at First Neuro Hospital, Mangalore. The deceased boy is from our village. Since I am not an eyewitness to the accident, I do not know how the accident happened and whose fault it was'. Thus the evidence of Pw-1/ Complainant is not helpful to the prosecution to prove the guilt of the accused with regarding to the alleged accident is concerned.

17. Prosecution examined eye witnesses to the accident is concerned. Pw-2 is the eye witness and Pw-3 is the complainant as well eye witnesses to the accident who lodged complaint. Admittedly they are the brothers and relatives to

the deceased Mohammed Adil who died in the accident due to the injuries caused in the accident.

18. Pw-2 in his chief examination deposed that 'The deceased Mohammed Adil is my sister's son. Cw-1 is my younger brother. On 23.09.2023, when I and my younger brother CW-1 were standing in front of Bharath's shop near Keyyuru Village School, Puttur Taluk, an Eco Car coming from Bellare side towards Kumbra was being driven negligently on the left side and hit Mohammed Adil who was walking on the mud road. At that time it was 4:25 PM. Due to the impact, Mohammed Adil fell on the road. When I, my brother and the public lifted the injured Mohammed Adil and checked, we found that he had sustained severe bleeding injuries to his head. He was not in a position to speak. Later, I and Najib took him in a vehicle to Puttur City Hospital and got him first aid. From there, for further treatment we took him to First Neuro Hospital. On the same day at 7:25 PM, Mohammed Adil died despite treatment. The name of the person who drove the car and hit is Mohammed Fayaz. Due to the fault of the car

driver, Mohammed Adil met with an accident and he died.’.

19. In the cross examination Pw-2 deposed that at the time of the accident he was at the shop of one Bharath, at that time, his younger brother Najib/Pw3 were there and they went their to purchase some things.

20. Pw-3 in his chief examination deposed that ‘The deceased Mohammed Adil is my sister’s son. On 23.09.2023 at 4:25 PM, I was at Bharath’s shop beside Keyyuru Public School in Keyyuru Village. At that time, school had been dismissed. My sister’s son was walking from the school towards home on the mud road on the right side of the road going from Kumbra side to Bellare side. Then, a Maruti Eco Car coming from the Bellare side was being driven by its driver carelessly and negligently. The car came from the left side and hit my sister’s son and caused the accident. Due to the impact, my sister’s son fell on the tar road. He sustained severe injuries to his head and he was not able to speak. Later, I and my elder brother Harris took my injured sister’s son in a car to Puttur City Hospital for treatment. We got him

first aid there, and then took him to First Neuro Hospital in Padil for further treatment. On the same day, the doctors informed that despite treatment, my sister's son died at 7:25 PM. The reason for my sister's son's death is the carelessness and negligence of the car driver Fayaz. After that, I went to Sampya Police Station and lodged a complaint.'

21. Pw-3 identified the complaint as per Ex.P-2, identified the accused and stated that he was the driver of the Car which caused the accident.

22. In the cross examination Pw-2 deposed that ' Harris is my elder brother. I myself called my elder brother to the spot. My elder brother came to the spot 10 minutes after the incident.', further deposed 'I have read the contents of the Mahazar. It is correct that there is no mention about the school and the shop in it. It is correct that the school and the shop which I am mentioning are not shown in Exhibit P-4 sketch/map. It is correct that the place of accident is not mentioned in Exhibit P-4.', further deposed 'When I went to the place of accident, I cannot say who all were there. I had

gone to the shop to buy household items. At that time I was inside the shop.', further deposed 'I saw the accident within 5 minutes of it happening.'.

23. On perusal of the cross examination of Pw-2, he deposed that at the time of the accident, he and his brother Pw-3 were at Bharath's shop which is 50 meters away from the place of the accident and both of them witnessed the accident. But in the cross examination of Pw-3 who is the complainant also deposed at the time of the accident he was inside the Bharath's shop and after the accident he called his elder brother/Pw-2 to the spot & his elder brother/Pw-2 came to the spot 10 minutes after the incident, as well he cannot say who all were there when he went to the place of accident. Further he admits that he saw the accident within 5 minutes of it happening.

24. On perusal of the testimony of Pw-2 and Pw-3, their testimony with regarding to their presence together at the time of the accident is not cogent and corroborative. As admitted by Pw-3 he was inside the Bharath's shop at the time of the

accident and after the accident he called Pw-2 to the shop, after 10 minutes of the accident, Pw-3 reached the spot and as per his admission he saw the accident within 5 minutes of it happening. Thus it creates doubt with regarding to presence of the Pw-2 and Pw-3 at the time of the accident. Since Pw-1 who was one of the alleged eye witness to the accident deposed contrary to the statement given by him to the investigating officer in his cross examination as well his testimony stated in his cross examination is not cogent and corroborates with the evidence of Pw-2 and Pw-3, thus it creates doubt with regarding to presence of the Pw-1 to Pw-3 at the time of the accident.

25. According to the prosecution, Pw-4 and Pw-6 are the panch witnesses alleged to be present at the time of conducting Spot Mahazar/Ex.P-3, and preparing Rough Sketch/Ex.P4. Pw-4 and Pw-6 identified Spot Mahazar/Ex.P-3, and Rough Sketch/Ex.P4, as well their signatures on the said documents. Pw-4 stated that he put his signatures on the said documents at the place where the accident taken place on

24.09.2023. Pw-6 stated that he put his signatures on the said documents at the place where the accident taken place on 24.03.2023. Both of them stated that the police on the said date seized the Eco Car from the spot in their presence.

26. The testimony of Pw-4 and Pw-6 is not corroborates with regarding to the date of conduct of Spot Mahazar/Ex.P-3, and preparing Rough Sketch/Ex.P4. They deposed different dates with regarding to conduct of Spot Mahazar/Ex.P-3, and preparing Rough Sketch/Ex.P4 at the place of the accident. Even-though they have identified the Car in the Ex.P-1 photographs, but they have not stated exact registration number of the said vehicle which was seized by the investigating officer/Pw-10 allegedly in their presence. Thus, it create doubt with regarding to conduct of Spot Mahazar/Ex.P-3, and preparing of Rough Sketch/Ex.P4 by the Pw-10 in presence of Pw-4 and Pw-6 as on the date as mentioned in Ex.P-3, and Ex.P4, hence this Court opines that the prosecution failed to prove that the conduct of Spot Mahazar/Ex.P-3, and preparing of Rough Sketch/Ex.P4 in the

place where the accident taken place in presence of the Pw-4 and Pw-6.

27. The evidence of rest of the prosecution witnesses i.e., Pw-5, Pw-7 to Pw-10 is not enough to prove the guilt of the accused to presume that due to the rash and negligent driving of the Car by the accused, the accident had been taken place and due to which the deceased got injured and while he was taking the treatment in the Hospital.

28. On perusal of the entire evidence produced by the prosecution, it clarifies that as per Ex.P-10/Post Mortem Report, there is no dispute that the death of the deceased Mohammed Adil was caused due to the hemorrhage due to Cranio-cerebral injuries due to blunt force trauma to the head secondary to Road traffic mishap. Prosecution succeeded to prove that the death of the deceased Mohammed Adil was caused due the injuries caused to him in the Road traffic mishap. The evidence adduced by the prosecution through Pw-1 to Pw-3 does not inspire confidence in their testimony to believe that they are the eye witnesses to the allged accident

and in their presence the accident had been taken place. Thus Prosecution beyond on all reasonable doubt failed to prove that due to the rash and negligent driving of the Car by the accused, the accident had been taken place and due to which the deceased got injured and while he was taking the treatment in the Hospital. Prosecution failed to bring home the ingredients of Section 279 and 304-A of IPC against the accused, as such doubt arises with regarding to causing of the accident by the accused due to his rash and negligent act as per the accusation made against him in the charge-sheet. Accused is entitled for the benefit of doubt, as such he is entitled for acquittal in this case. With all these discussions I proceed to answer point No.1 and 2 in the negative.

29. Point No.3: As I discussed above in Point No.1 & 2, since the prosecution failed to prove the guilt of the accused as per the contents of the charge-sheet, I proceed to pass the following.,

ORDER

Acting under Sec.248(1) of Code of

Criminal Procedure Accused is hereby acquitted for the offences punishable under Section 279 & 304(A) of IPC.

The Car bearing Reg. No.KA-19-MG-5294 seized PF as per no.73/2023 and released to the owner and RC holder of the said Car is hereby made absolute.

Bail bonds and surety bonds executed by the accused is ordered to be continued for about 6 months from the date of this order.

(Directly dictated to the stenographer online, she typed, thereafter corrected, signed and then Judgment pronounced in the open court, this the 9th Day of July 2026)

(Devaraj.Y.H)
I AI ADDL. SR. CIVIL JUDGE & JMFC
PUTTUR

ANNEXURE

1) List of Witnesses examined on behalf of prosecution:

PW-1: Shri. Mahammad Aaseef

PW-2: Shri. Hyarees

PW-3: Shri. Mahamad Nazeeb

PW-4: Shri. Mohamad Irfan

PW-5: Shri. Ahamad Aveez
PW-6: Shri. Abdul Jaleel
PW-7: Shri. Prashant P
PW-8: Shri. Asfan B S
PW-9: Shri. Ravi B S
PW-10: Shri. Dhananjaya B C

2) List of documents marked on behalf of prosecution :

Ex.P-1: Copy of photographs
Ex.P-2 : Complaint
Ex.P-2(a): Signature of Pw-3
Ex.P-2(b): Signature of Pw-7
Ex.P-3 : Spot mahazar
Ex.P-3(a): Signature of Pw-3
Ex.P-3(b): Signature of Pw-4
Ex.P-3(c): Signature of Pw-6
Ex.P-3(d): Signature of Pw-10
Ex.P-4 : Draft Sketh
Ex.P-4(a): Signature of Pw-3
Ex.P-4(b): Signature of Pw-4
Ex.P-4(c): Signature of Pw-6
Ex.P-4(d): Signature of Pw-10
Ex.P-5: Indemnity bond
Ex.P-5(a): Signature of Pw-5
Ex.P-5(b): Signature of Pw-9
Ex.P-6: FIR

Ex.P-6(a): Signature of Pw-7

Ex.P-7: Motor Vehicles Accident Report

Ex.P-7(a): Signature of Pw-8

Ex.P-7(b): Signature of Pw-9

Ex.P-8: Notice issued under Sec.133 of IMV Act

Ex.P-8(a): Signature of Pw-9

Ex.P-9: Reply given to the notice issued
under Sec.133 of IMV Act

Ex.P-9(a): Signature of Pw-9

Ex.P-10: Post mortem report

Ex.P-10(a): Signature of Pw-9

Ex.P-11: Certificate under Sec.65(B) of
Indian Evidence Act

Ex.P-11(a): Signature of Pw-9

3) List of Witnesses examined on behalf of accused :

NIL

4) List of documents marked on behalf of accused :

NIL

**5) List of materials objects identified on behalf of
prosecution.**

NIL

**4) List of witness/ documents marked on behalf of
accused:**

-Nil-

(Devaraj.Y. H)
I ADDL. SR. CIVIL JUDGE & JMFC
PUTTUR