

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I  
ALAPPUZHA**

Present: Reshma R.S.

Judicial Magistrate of First Class

Dated this, the 25th day of May, 2026

**CC No.1703/2018**

Complainant : State of Kerala represented by the Sub  
Inspector of police, Alappuzha Traffic  
Police Station in Crime No.533/2018  
  
Rep. by A.P.P., Alappuzha

Accused : Sarathkumar aged 20/18, S/o Reghukumar,  
Murukalayam Veedu, Mararikulam South  
Panchayath Ward No.5, Alappuzha  
  
Rep. by Adv. M. Raveendradas

Offences : U/s.279, 304A of Indian Penal Code

Plea : Not guilty

Finding : Not guilty

Sentence or Order : Accused is acquitted u/s.255(1) of Cr.P.C.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name of the Police Station and Crime No. of the offence	Name	Father's name	Occupation	Residence	Age
1.	Alappuzha Traffic Police Station in Crime No.533/2018	Sarathkumar	Reghukumar	...	Murukalayam Veedu, Mararikulam South Panchayath Ward No.5, Alappuzha	20/18

DATES OF

Occurrence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Commencement of Evidence
17.07.18	17.07.18	19.07.18	19.07.18	...	06.02.24	07.02.25

Close of trial	Sentence/ Order	Service of Copy of Judgment or finding on account	Explanation of delay	Period of detention undergone during investigation, inquiry of trial for the purpose of section 428 Cr.P.C.
21.05.26	25.05.26	...	No delay	...

This case having been heard on 21.05.2026 and the court on 25.05.2026 delivered the following:

J U D G M E N T

1. This is a case instituted on a final report filed by the Sub Inspector of police, Alappuzha Traffic Police Station, in Crime No.533/2018, alleging commission of offences punishable u/s. 279 and 304A of the Indian Penal Code against the

accused person.

2. The prosecution case in brief is as follows: The accused, on 17.07.2018 at 10:00 hours, drove a motorcycle bearing registration No.KL 04 AM 3981 along the Alappuzha-Kayamkulam NH Road from south to north at an excessive speed and in a rash and negligent manner so as to endanger human life. When the motorcycle reached near Chudukadu junction, it hit Udayappan, who was crossing the road from the western side to the eastern side and sustained injury to his head. The injured, however, succumbed to death due to the accident at the General Hospital, Alappuzha. Thus, the accused is alleged to have committed the aforesaid offences.
3. On the appearance of the accused, he was released on bail and copies of all relevant prosecution records were furnished to him, and thereby mandate under S. 207 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C) was complied with. Thereafter, the particulars of offences u/s.279, and 304A of I.P.C., were read over and explained to the accused, to which he pleaded not guilty and claimed to be tried.
4. From the side of the prosecution, PW1 to PW6 were examined, and Exts.P1 to P9 were marked. After the closure of the prosecution evidence, the accused was examined u/s.313(1)(b) Cr.P.C. with regard to the incriminating circumstances appearing against him. He denied all the incriminating circumstances alleged against him and pleaded innocence. No evidence was adduced from the side of the accused.
5. Heard both sides and perused all the records.
6. The points that arise for consideration are as follows:
  1. Whether at 10 am on 17/07/2018, at Alappuzha-Kayamkulam

NH Road, the accused drove a motorcycle bearing registration No. KL 04 AM 3981 in an excessive speed and in a rash or negligent manner so as to endanger human life, as alleged, and thereby committed the offence punishable under Section 279 IPC ?

2. Whether on the same place, time and date, the accused caused the death of Udayappan due to his rash and negligent driving of the motorcycle bearing registration No.KL 04 AM 3981 as alleged, and thereby committed an offence punishable under Section 304A IPC?

3. What shall be the sentence or order ?

7. **Point nos.1 and 2** : These points are considered together for brevity, convenience, and to avoid repetition of facts. The learned Assistant Public Prosecutor submitted that the evidence of PW2 would prove that the accused drove his motorcycle in a negligent manner. His evidence would also prove the identity of the accused. Hence, the accused is liable to be convicted. Per contra, the learned counsel for the accused submitted that the evidence of PW2 is not credible because it is hearsay. It was further submitted that CW4, the son of the deceased, told PW2 about the material particulars of the vehicle and the alleged incident and that PW2 deposed before the court from the hearsay knowledge he obtained from CW4. It was also contended that CW4 was not examined before the court, even though he was cited as a witness. According to the learned counsel for the accused, the identity of the accused is not revealed, and there is no sufficient evidence to prove the guilt of the accused. The law. It was also argued that the prosecution failed to prove the case against the accused beyond a reasonable doubt; hence, the accused is liable to be acquitted. The learned

counsel for the accused relied on the decisions of the Hon'ble Apex Court in **Anand Ramachandran Chougule and Others v. State of Karnataka, reported in 2019(3) Crimes 188, and Jagdish and Another v. State of Haryana, reported in 2019 (3) Crimes 185.**

8. Here, PW1 and PW2 are the eye-witnesses to the incident. CW1, who lodged the first information statement, was not examined. Despite coercive steps, prosecution could not procure the presence of CW1. CW3 was examined as PW1, and CW2 was examined as PW2. PW1 does not support the prosecution case. He gave evidence before the court that he does not remember the date of the incident, and that while crossing the road, a motorcycle hit the deceased person, and he suffered injuries to his head. He further added that he does not remember the bike's registration number or the driver. According to PW1, the reason for the incident is the over speed of the vehicle.
9. However, it can be seen that PW2 supported the version of the prosecution case. He clearly deposed about the date of the incident, and also identified the accused in court. However, during his cross-examination, he deposed before the court that CW4, the son of the deceased, told him the vehicle's registration number yesterday, and hence he testified it before the court. PW2 reiterated that he testified before the court on the basis of the information furnished by CW4. In such parlance, it can only be seen that PW2 gave evidence before the court from his hearsay knowledge, and not from his direct knowledge. Another point to note is that both PW1 and PW2 gave evidence to the effect that they made statements to the police at the scene of the incident and never went to the police station. But the PW6 gave evidence to the effect that their statements were recorded at the police station. The Motor Vehicle Inspector, Alappuzha RTO, was examined as PW3. The inspection report prepared by him was marked as Ext.P1 through him.

According to PW3, the vehicle had no mechanical defects, and the braking system was efficient.

10. The doctor who conducted the post-mortem of the body of the deceased/victim was examined as PW4. The post-mortem certificate was marked as Ext.P2. According to him, the cause of death is the head injury, and that might have been the result of the accident. The police officer who conducted the inquest was examined as PW5. The inquest report was marked as Ext.P3. The then traffic police station sub-inspector was examined as PW6. The first information statement given by CW1 was marked as Ext.P4 through PW6. The FIR was marked as Ext. P5. The mahazar was examined as Ext.P6. The 3<sup>rd</sup>-party kaichit prepared at the time of release of the vehicle was marked as Ext.P7, and the address report was marked as Ext. P8. The bail bond was marked as Ext.P9. During his cross-examination, PW6 deposed before the court that the statements of the witnesses were recorded at the police station.

11. Here, as the offences alleged are punishable u/S.279 and 304A IPC, the prosecution has to prove that the rash or negligent act of the accused resulted in the death of Udayappan. The law on this point is very clear. The Hon'ble Apex Court in **Shakila Khader v. Nausher Gama and Another**, reported in **AIR 1975 SC 1324**, held that *"The main criterion for deciding whether the driving which led to the accident was rash and negligent is not only the speed but the width of the road, the density of the traffic and the attempt, as in this case, to overtake the other vehicles resulting in going to the wrong side of the road and being responsible for the accident."*

12. The Hon'ble High Court of Rajasthan in **State v. Hari Singh**, reported in **AIR 1969 Raj 86**, held that *"The mere fact that a fatal accident took place would not by itself be enough to make the accused liable under S. 304 - A, I. P. C. To bring*

*home an offence under this section, it must be proved beyond reasonable doubt by the prosecution that the death of the victim was the direct result of rashness or negligence on the part of the accused.”*

13. In light of the above decisions, an analysis of the evidence makes it clear that the evidence on record would only prove the occurrence of the accident. The evidence of PW4 would show that Udayappan died due to head injury. The evidence of PW3 would show that the accident was not due to any mechanical defect of the motorcycle. Only PW2 deposed in tune with the prosecution case. But he himself reiterated that he is giving evidence before the court on the basis of the hearsay knowledge furnished by CW4. The evidence of PW1 and PW2 only establishes that the accident occurred due to the vehicle's overspeed. However, there is no evidence to prove that the accused drove his motorcycle in a rash or negligent way so as to endanger human life, and accordingly, he hit the deceased, causing a head injury, resulting in his death. Here, the hearsay evidence of PW2 alone is not sufficient to prove the negligence of the accused. There is no evidence to prove that the death of Udayappan was the direct result of rashness and negligence on the part of the accused. Hence, it can only be concluded that the prosecution has failed to prove the offences alleged against the accused beyond reasonable doubt, and hence, the accused is liable to be acquitted. These points are found against the prosecution.

14. **Point no. 3:** In view of the findings in point nos. 1 and 2, this point does not arise for consideration. The prosecution has failed to prove the offences alleged against the accused beyond reasonable doubt, and hence, the accused is found not guilty of the offences punishable u/S.279 and 304 A IPC. This point is found accordingly.

15. In the result: The accused is found not guilty of the offences alleged against him, and he is acquitted u/S.255 (1) Cr.P.C. of the offences punishable u/S.279 and 304 A IPC. His bail bond shall stand cancelled. He is set at liberty.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in the open court, on this, the 25<sup>th</sup> day of May, 2026).

Sd/-  
Judicial Magistrate of First Class-I  
Alappuzha

### **APPENDIX**

**Prosecution Witnesses :**

PW1	Afsal	Eye witness
PW2	Praveen	Eye witness
PW3	M.R.Velu Goutham	Other witness
PW4	Dr. Zacariya	Medical witness
PW5	Sajeev	Police witness
PW6	Deepu T.R.	Police witness

Defence Witnesses : NIL

Court Witnesses : NIL

**Prosecution Exhibits :**

1.	Ext.P1	Inspection report	PW3
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2.	Ext.P2	Post-mortem certificate	PW4
3.	Ext.P3	Inquest report	PW5
4.	Ext.P4	First Information Statement	PW6
5.	Ext.P5	First Information Report	PW6
6.	Ext.P6	Scene mahazar	PW6
7.	Ext.P7	Third-party kaichit	PW6
8.	Ext.P8	Address report	PW6
9.	Ext.P9	Bail bond	PW6

Defence Exhibits : NIL

Court Exhibits : NIL

Material Objects : NIL

Sd/-  
Judicial Magistrate of First Class-I  
Alappuzha

**JUDGMENT**  
**IN**  
**CC No.1703/2018**

**Dated : 25.05.2026**