

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II
Present: Smt. Aminakutty. P.M, Judicial First Class Magistrate-II
Dated this the 18th day of March , 2026.

C C No. 1191 of 2020

Complainant : State-represented by the Inspector of Police,
Aroor Police station in crime 799 of 2020
(By A PP, Cherthala-II)

Accused : Nishma Nousad, Aged 22/20, S/o. Noushad
Puthupparambil, Thrikkodithanam P O
Thrikkodithanam P/W-2, Kottayam
(By Adv Sri. Deepth Dinakar)

offence : Punishable u/s. 279, 304(A), 338 of IPC

Plea : Not guilty

Finding : Not found guilty

Sentence or order : Accused is acquitted u/s 255(1) Cr PC

DESCRIPTION OF THE ACCUSED

Sl.No.	Name of Police Station & crime No.	Name	Father's name	Calling	Residence	Age
1	Aroor crime No.799/20	Nishma Noushad	Noushad	--	Puthupparambil, Thrikkodithanam P O Thrikkodithanam P/W-2, Kottayam	22/20

Date of

Occurrence	Complaint	Appearance of accused	Released on bail	Commencement of trial
25.05.2020	04.09.2020	15.10.2024	15.10.2024	16.01.2025

Close of trial	Sentence or order	Explanation for delay
12.03.2026	18.03.2026	--

This case coming on for hearing on this day and the court on the same day passed the following:

JUDGMENT

This is a case charge sheeted by the Police Inspector, Aroor Police station in crime No. 799 of 2020 for the offence punishable u/s 279, 338, and 304 A of Indian Penal Code, 1860 (hereinafter in short as IPC).

2. Prosecution case in brief is that, on 25.05.2020 at about 10:30 a.m., the accused rode scooter bearing registration number KL-33G-6142 in a rash and negligent manner so as to endanger human life along the Cherthala–Vyttila National Highway. When the vehicle reached near Eramallur Junction, it hit the father of CW1, who was attempting to cross the road, and he fell down and sustained severe head injuries. He succumbed to those injuries while undergoing treatment at Ernakulam Medical Trust Hospital on 04.06.2020 at 20:15 hours. By these acts, the accused is alleged to have committed offences punishable under Sections 279, 338, and 304A of the Indian Penal Code.

3. On appearance of the accused, copies of all relevant documents relied on by the prosecution were furnished to him u/s 207 of Cr P C and he was released on bail. The accused herein is defended by the counsel appointed

by him. After hearing both sides, charge was framed for the offence u/s 279, 338, and 304 A IPC and read over and explained to the accused to which he pleaded not guilty.

4. In order to prove the prosecution case, PW1 to PW5 were examined and Exts. P1 to P11 were marked. The remaining witnesses were given up by learned Assistant Public Prosecutor. As there were no incriminating circumstances appeared against the accused, questioning of the accused u/s 313(1) (b) of Cr P C was dispensed with. Thereafter, the accused was called upon to enter upon his defence and adduce evidence. No evidence was adduced by the accused.

5. Now the points that arise for consideration are:

- 1) Whether the accused, on 25.05.2020 at about 10:30 a.m., rode scooter bearing registration number KL-33G-6142 in a rash and negligent manner so as to endanger human life along the Cherthala–Vytila National Highway and hit father of CW1 causing injuries to him, and thus committed the offence alleged?
- 2) Whether the accused, by the aforesaid rash and negligent driving of his scooter, voluntarily caused hurt to father of CW1 and thereby committed the offence alleged?

3) Whether the accused, by the aforesaid act, caused the death of father of CW1 while undergoing treatment and thereby committed the offence alleged?

4) If so, what is the order or sentence to be passed?.

6. Heard both sides.

7. Point Nos.1 to 3 :- In order to avoid repetition, for brevity and for the sake of convenience, these points are considered together. The prosecution relied on the oral evidence of PW1 to PW5 and Exts.P1 to P11. PW1 deposed that, being the defacto complainant in this case, he gave a statement to the police following the accident which occurred on 25.05.2020 at Eramallur. He stated that his father sustained injuries while he was at Eramallur to purchase medicine for his mother. When his father attempted to cross the road from east to west, a scooter came from the southern side and hit him. He was taken to Moham Hospital and thereafter shifted to Medical Trust Hospital, where he was treated in the ICU for 12 days. He succumbed to the injuries on 03.06.2020. The statement given by PW1 to the police was marked as Ext P1.

8. PW2 deposed that, on 25.05.2020, while serving as Sub-Inspector at Aroor Police Station, he recorded the statement of PW1 and registered Ext P2 FIR. He further stated that he arrested the accused and released him on

executing Ext P3 bail bond. PW3 deposed that, upon hearing a sound, he turned around and witnessed the accident near Eramallur Junction. He found the injured lying on the road, approached him, and identified him as Joseph, who had been hit by a two-wheeler. However, PW3 stated that he could not identify the person who rode the vehicle. He added that several persons had gathered at the spot. He confirmed that he did not give any statement to the police and ultimately turned hostile to the prosecution

9. PW4 deposed that, on 25.05.2020, while he was on GD charge duty at Aroor Police Station, he recorded the statement of PW1. He stated that he took over the investigation from CW15, reached the place of occurrence at Eramallur Junction on the southern track of the National Highway, about 20 metres away from Eramallur Junction, and prepared Ext P4 scene mahazar. On 27.05.2020, he took into custody the offending vehicle and prepared Ext P5 seizure mahazar. He thereafter filed Ext P6 address report of the accused. PW5 deposed that, while serving as Sub-Inspector of Aroor Police Station, he took over the investigation and filed a report adding Section 304A IPC following the death of the injured. That report was marked as Ext P7. He further stated that he conducted the body inquest of the deceased at Medical Trust Hospital, Ernakulam, and the inquest report was marked as Ext P8. The AMVI report of

the offending vehicle was produced before the Court and marked as Ext P9. He also collected the post-mortem certificate, which was marked as Ext P10, and the wound certificate of the deceased, which was marked as Ext P11. Thereafter, he completed the investigation and filed the final report.

10. In the present case, the material witnesses have turned hostile to the prosecution. Exhibit P1, FIS, does not constitute substantive evidence unless duly corroborated by the oral testimonies of competent witnesses. The prosecution case thus rests primarily on documentary evidence, Exhibits P2 to P11, which by themselves do not establish the identity of the accused as the rider of the offending vehicle. In absence of credible oral testimony, the prosecution faces difficulty in proving rash and negligent driving attributable to the accused. Hence, on perusing the evidence on record, this court is having the opinion that there is no evidence to prove the guilt of the accused. Hence the accused is entitled to get acquittal. Accordingly these points are found against the prosecution.

11. **Point No. 4:** In view of findings on point No.1 to 3, the accused is found not guilty of the offences alleged against him and he is entitled to get an acquittal.

12. In the result, the accused is found not guilty for the offences punishable u/s 279, 338, and 304 A of IPC and he is acquitted under section 255(1) of the Code of Criminal Procedure. He is set at liberty and the bail bond executed by the accused is cancelled.

Directly dictated to Adalath AI, corrected and pronounced by me in the open court on this the 18th day of March, 2026.

Sd/-
Aminakutty P.M.
Judicial First Class Magistrate -II
Cherthala.

APPENDIX:

Witnesses examined for prosecution:

PW1 - Bijumon
PW2 - K J Jacob (SI)
PW3 - Wilson
PW4 - Shyam (SI)
PW5 - Sreekumar (SI)

Exhibits marked for the prosecution :

P1 - FIS marked through PW1
P2 - FIR marked through PW2
P3 - Bail Bond marked through PW2
P4 - Scene Mahazar marked through PW4
P5 - Seizure Mahazar marked through PW4
P6 - Address report marked through PW4

- P7 - Section added report marked through PW5
- P8 - Inquest report marked through PW5
- P9 - Vehicle inspection marked through PW5
- P10 - Postmortem certificate marked PW5
- P11 - Wound certificate marked PW5

Witnesses examined for the defence : Nil
Exhibits marked for the defence : Nil
Material Objects : Nil

Sd/-

Aminakutty P.M
Judicial First Class Magistrate -II
Cherthala.

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Judicial First Class Magistrate -II
Cherthala.