

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II, MAVELIKKARA.**Present: Sri.Anandhu.J.B, Judicial First Class Magistrate-II****Wednesday, April 29, 2026****CC.42/2021**

Complainant : State represented by the S.I of Police,
Nooranadu P.S in Cr. No. 967/2013
(By APP, JFCM Court- II, Mavelikara)

DESCRIPTION OF ACCUSED

Name	Father's name	Occupation	Residence	Age
Satheesh	S/o Nakulan		S.S Bhavanam, Thamarkulam East muri, Thamarakulam village	21/13

(By Adv. B.Pradeep)

Offence : U/ss. 279 and 304 A of IPC.
Plea : Not guilty
Finding : Not guilty
Sentence/order : Accused is acquitted u/s.255(1)Cr.P.C.

Dates of:

Occurrence	Complaint	Appearance	Release on bail	Commitment	Commencement of trial	Commencement of evidence	
28.07.2013	02.05.2014	30.03.2022	30.03.22		20.06.2022	19.07.2023	
Close of trial	Sentence or order	Service of copy of judgment or finding on accused		Explanation of delay	Period of detention undergone during investigation, inquiry or trial for the purpose of s.428 CrPC.		
29.04.2026	29.04.2026	-		No delay	-		

This case coming on for hearing before me on 29.4.2026 and this day the court passed the following:-

J U D G M E N T

1. This case arose on a final report submitted by the S.I of Police, Nooranad in Cr. No.967/2013 alleging offences punishable u/ss. 279 and 304 A of IPC.

2. **The prosecution case in brief is as follows:** The accused on 28.07.2013 at 6:30 PM, rode the motorcycle bearing registration no. KL 29 C 1286 in a rash and negligent

manner so as to endanger human life from north to south through Charummoodu-Thamarakulam road. When it reached Charummoodu junction, while trying to overtake the vehicle in front of him, it hit on the motorcycle bearing registration no. KL 31 E8605 motorcycle ridden by Sankarakurup aged 58. Due to the above hit, the said Sankarakurup fell on the road and sustained injury on his head. He succumbed to his injuries on 24.12.2013 while he was undergoing treatment.

3. On appearance of the accused, copies of relevant records were furnished to him. After hearing both sides, particulars of offences u/ss.279 and 304-A of the IPC were read over and explained to the accused to which he pleaded not guilty.

4. The prosecution examined PW1 to PW18 and marked Exts. P1 to P15. On the closure of prosecution evidence, the accused was examined u/s 313(1)(b) Cr.P.C. He denied all the incriminating circumstances brought against him. Therefore, he was directed to enter into his evidence. But no defense evidence was adduced.

5. Heard both sides.

6. Following points arise for consideration;

1. Whether the accused on 28.7.2013 at 6:30 PM, rode the motor cycle bearing No. KL- 29 C 1286 in a rash and negligent manner so as to endanger human life from north to south along the Charummoodu – Thamarakulam public road, as alleged?
2. Whether Mr. Sankarakurup, the relative of PW1, died due to the rash and negligent driving of the motorcycle by the accused, as alleged?
3. If so, what shall be the sentence or order?

7. **Point Nos.1 and 2:** For the sake of convenience, these points are considered together. The prosecution allegation is that the accused has ridden a motorcycle bearing no. KL 31 C 1286 in a rash and negligent manner and while trying to overtake a vehicle, it hit

Mr. Sankarakurup, who died due to the injuries incurred. PW1 stated that his relative Sivasankara Kurup died in the accident occurred on 28.07.2013 at Kayamkulam -Punalur road. He gave Ext.P1 FIS to the police, but he did not see the incident.

8. PW2 is a witness to Ext.P2 scene mahazar. PW3, PW4 and PW9 are attestors to Ext.P3 inquest report.

9. PW5 and PW8 are cited to prove the occurrence. PW5 stated that he witnessed the incident. According to PW5, the alleged accident occurred near Charumood junction. He saw two bikes colliding each other. He stated that the person who died was Mr. Sankarakurup. He stated that the reason for accident was overspeed of the bike. He did not remember the date of occurrence. He further stated that he did not know the number of the vehicles involved in the incident. He also stated that he could not remember the person who rode the bike.

10. PW8 stated that he witnessed the accident that happened on 28.07.2013. He stated that the accident happened near Charumood junction. He was returning from his friend's house. A motorcycle, which was driven in an overspeed, has overtaken him. While so, it hit a motorcycle driven toward the opposite side. Due to the hit, both of them fell on the road. They were taken to the hospital. The over speeding bike was driven by Mr. Saneesh. His bike was having registration number KL 29 C 1286. According to PW8 the reason for the accident is over speed of the driving of the accused.

11. According to PW6, he received the dead body of the deceased after inquest. PW7 and PW12 received the vehicles involved in this case as per Exts.P5 and P9 third party bonds respectively. PW10 stated that while he was working as Asst.Professor in Surgery at TD Medical College, Alappuzha, he examined one Sankarakurup aged 65 years and issued Ext.P6 wound certificate. PW10 stated that he was brought after a road traffic accident. PW11 is the then AMVI of Mavelikara SRTO. He issued Exts.P7 and P8 Inspection

certificates. PW13 is the CPO who done dead body protection duty. PW14 recorded Ext.P1 FIS of PW1.

12. PW15 was the then Addl. Sub Inspector of Police, Nooranad. He stated that he registered Ext.P10 FIR based on Ext.P1 FIS of PW1. As part of the investigation, he prepared Ext.P2 scene mahazar. He released the vehicles involved in this case as per Ext.P5 and P9 third-party bonds. Ext.P7 and P8 are the inspection certificates of vehicle issued by CW11. He arrested the accused and released him as per Ext.P11 bail bond. He also prepared Ext.P12 report identifying the name and address of accused.

13. PW16 was the then Addl. S.I of Police, Nooranad. He stated that he prepared Ext.P3 inquest report. PW17 stated that while he was working as Clinical Asst. Professor, Department of Critical Care at Amritha Institute of Medical Science, he examined one Sankarakurup, who came with alleged history of road traffic accident and issued Ext.P13 Certificate.

14. PW18 was the then Sub Inspector of Police, Nooranad. He stated that he filed Ext.P14 report before the court. According to him, he verified Ext.P16 postmortem report. He verified the records and laid the final report before the Court.

15. In this case, PW1 was the informant. He gave Ext.P1 F.I. Statement to the police, but he did not witness the incident. PW5 and PW8 are cited to prove the occurrence. PW5 stated that he did not remember the date of occurrence. He further stated that he did not know the number of the vehicles involved in the incident. PW8 stated that the reason for the accident is over speed of the driving of the accused. Both PW5 and PW8 have deposed that the alleged accident occurred due to the over speeding of the vehicle driven by the accused. None of them have stated that the incident happened due to any rash or negligent act of the accused.

16. The question to be considered is that whether overspeed alone is sufficient to establish rash and negligence from the part of the accused. Hon'ble Apex Court in **State of Karnataka v. Satish [1998 KHC 1353]**, dealing with the above question, has held as follows;

4. Merely because the truck was being driven at a "high speed" does not be speak of either "negligence" or "rashness" by itself. None of the witnesses examined by the prosecution could give any indication, even approximately, as to what they meant by "high speed". "High speed" is a relative term. It was for the prosecution to bring on record material to establish as to what it meant by "high speed" in the facts and circumstances of the case. In a criminal trial, the burden of providing everything essential to the establishment of the charge against an accused always rests on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject of course to some statutory exceptions. There is no such statutory exception pleaded in the present case. In the absence of any material on the record, no presumption of "rashness" or "negligence" could be drawn by invoking the maxim "res ipsa loquitur".

Relying on the above decision, Hon'ble High Court of Kerala in **Suseelan v. State of Kerala [2024 KHC 7113]** has held as follows;

Merely because the vehicle is being driven at a high speed does not show that the driver was rash or negligent by itself. "High speed" or "over speed" as it is often referred to, is a relative term. It is for the prosecution to bring on record materials to establish as to what is meant by "high speed" in the facts and circumstances of the case. In a criminal trial, the

burden of proving everything essential to the establishment of the charge against an accused always rests on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject of course to some statutory exceptions. In the absence of any material on record, no presumption of "rashness" or "negligence" could be drawn by invoking the maxim "res ipsa loquitur".

From the evidence available before this court, it seen that there is no evidence to show that late Mr.Sankarakurup has died due to any rash and negligent act of the accused.

17. From the evidence before this court, it is clear that late Mr.Sankarakurup was taken to KCM Hospital, Nooranad and then to Govt. Hospital, Kayamkulam. Admittedly, records from those hospitals are not produced before this court. Further, the accident happened on 27.08.2013. Mr.Sankarakurup was discharged from Amrita Hospital on 31.08.2013. He died on 25.12.2013, after 5 months from the accident. Ext.P15 was the post mortem certificate issued after conducting the postmortem on the body of Mr.Sankarakurup. It is stated that the death was due to injuries sustained to brain due to road traffic accident which happened 5 months back. It is also stated in postmortem report that the death happened due to chronic obstructive pulmonary diseases which lead to cardiorespiratory arrest. Hence, the medical evidence available before this court is not sufficient to conclude that the death caused only due to the alleged road accident.

18. From the evidence on record, it is seen that in none of the occurrence witnesses deposed that the accused had ridden the motorcycle in a rash and negligent manner and caused the incident. Here, the prosecution failed to establish that Mr.Sankarakurup has died due to the rash and negligent act of the accused. On appreciation of the entire evidence, I am of the view that, the evidence let in by the prosecution does not prove the offences alleged

against the accused beyond all reasonable doubt. Thus, points nos.1 and 2 are found against the prosecution. Since points 1 and 2 are found against the prosecution, point no.3 does not arise for consideration.

In the result, accused is found not guilty for the offenses punishable u/ss 279 and 304 A IPC and is acquitted u/s 255(1) of Cr.P.C His bail bond stands cancelled and he is set at liberty.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court on this the 29th April, 2026.

Judicial First Class Magistrate-II,

Mavelikara

APPENDIX:

1. List of prosecution/Defence/Court witnesses

A. Prosecution witnesses.

PW1	Maneesh Mohanan	FI statement witness
PW2	Achuthan Pillai	Mahasar Witness
PW3	Saraswathy	Eye witness
PW4	Suseela kurup	Eye Witness
PW5	Ranjith	Eye witness
PW6	Manoharan Pillai	Inquest Witness
PW7	Babu	Other witness
PW8	Anuraj	eye witness
PW9	Rajan	Inquest witness
PW10	Dr.Preetha	Medical witness
PW11	Thomas Zacharia	Mahasar witness
PW12	Shibu	Other witness
PW13	Gopi	police witness
PW14	Sivaraman	Police witness
PW15	Sivadasan	Police witness
PW16	V.Ajayan	Police witness
PW17	Dr.Sabareesh	Medical witness
PW18	R.Fayas	I.O

B. Defence witness:Nil

C. Court witness: Nil

II. List of prosecution/Defence/ Court Exhibits

A. Prosecution Exhibits:

1.	Ext.P1/PW1	First Information statement
2.	Ext.P2/PW2	Scene Mahasar
3.	Ext.P3/PW3	Inquest report
4.	Ext.P4/PW5	Portion of CW2
5.	Ext.P5/PW7	Third party kychit
6.	Ext.P6/PW10	Wound certificate
7.	Ext.P7/PW11	AMVI report
8.	Ext.P8/PW11	AMVI report
9.	Ext.P9/PW12	Third party kychit
10.	Ext.P10/PW15	First Information Report
11.	Ext.P11/PW15	Bail bond
12.	Ext.P12/PW15	Report
13.	Ext.P13/PW17	Letters
14.	Ext.P14/PW17	Report (section)
15.	Ext.P15	Post mortem certificate

B. Defence Exhibits:Nil

C. Court Exhibits:- Nil

D. Material Objects:Nil

Judicial First Class Magistrate-II.
Mavelikara.