

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, RAMANKARY

Present:-Sri. Arun Kumar P, Judicial First Class Magistrate

Dated, this the 29th day of May, 2026.**C.C.No. 543/2023**

Complainant : State-represented by the Sub Inspector
of Police, Nedumudy Police Station in
crime no. 474/2023
(By A P P- Ramankary)

Accused : Babu P
(By Adv. V Pramod)

Offence : U/ss. 279, 337, 338 & 304 (A) of Indian
Penal Code, 146 r/w 196, 3 (1) r/w 181 of
Motor Vehicle Act

Plea : Not guilty

Finding : Not guilty.

Sentence or order : Accused is acquitted u/s 255(1) CrPC
and is set at liberty.

DESCRIPTION OF THE ACCUSED:-

Sl. No	Accused	Father's name/Husband name	Occupation	Residence	Age
	Babu P	Ponnappan		Cherubhavanam veedu, Pullangadi Muriyil, Chambakkulam PW 7, Pullangadi PO, Chambakkulam Village, Kuttanadu Taluk, Alappuzha	49/ 23

DATE OF:-

Offence	Complaint	Appearance	Release on bail.	Commitment	Commencement of trial	Commencement of Evidence
08.08.2023	09.08.2023	03.02.2024	03.02.2024	...	19.06.2024	05.08.2024

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.PC
26.05.2026	29.05.2026			

This case coming on this day for consideration, the court on the same day delivered the following:

J U D G M E N T

1. This is a case charge sheeted by the Sub Inspector of Police, Nedumudy Police Station in Crime No. 474/2023 against the accused alleging the offences punishable U/ss. 279, 337, 338 & 304 (A) of Indian Penal Code, 146 r/w 196, 3 (1) r/w 181 of Motor Vehicle Act.

2. **Prosecution case in brief is as follows:-** The accused had driven motorcycle bearing registration number KL-66A-5371 on 08.08.2023 at around 02.45 p.m. at Chempumpuram-Pandarakalam road and collided with Bhaskaran, son of Gopalan aged 72 years and he was taken to Medical College hospital and he succumbed to the fatal injuries sustained by the said accident on 10.08.2023 at 08.40 p.m. and

thereby the accused is alleged to have committed offences punishable under section 279, 337, 338 & 304 (A) of Indian Penal Code, 146 r/w 196, 3 (1) r/w 181 of Motor Vehicle Act.

3. On submission of charge sheet by the investigating officer, cognizance was taken for the offences punishable u/ss. U/ss. 279, 337, 338 & 304 (A) of Indian Penal Code, 146 r/w 196, 3 (1) r/w 181 of Motor Vehicle Act against the accused persons and the case was taken on file as CC.543/2023. On issuance of summons the accused entered appearance. He was represented by a counsel who filed vakalath. He was enlarged on bail. Copies of relevant records of prosecution case were furnished to him and thereby mandate u/s.207 of Cr.PC was duly complied with. Particulars of offences punishable u/ss.U/ss. 279, 337, 338 & 304 (A) of Indian Penal Code, 146 r/w 196, 3 (1) r/w 181 of Motor Vehicle Act and it was read over to the accused person to which he pleaded not guilty and claimed to be tried.

4. From the side of the prosecution, eleven witnesses were examined as PW1 to PW11 and sixteen documents were marked as Exts.P1 to P16.

5. After the closure of prosecution evidence the accused was examined u/s.313(1)(b) Cr.Pc. for all incriminating circumstances appeared against him to which he denied and further submitted that he was falsely implicated in the case.

6. Heard the learned Assistant Public Prosecutor and the learned counsel for the accused.

7. **The points that arise for determination are:-**

1. *.Whether the second accused had driven motorcycle bearing registration number KL-66A-5371 on 08.08.2023 at around 02.45 p.m in a rash or negligent manner so as to endanger human life and thereby committed offence punishable u/s 279 Indian Penal Code?*
2. *Whether the accused persons caused hurt to deceased – Bhaskaran by driving motorcycle bearing registration number KL-66A-5371 on 08.08.2023 at around 02.45 p.m in rash or negligent manner and thereby committed offence punishable u/s 337 Indian Penal Code?*
3. *Whether the accused caused hurt and grievous hurt to deceased Bhaskaran by driving motorcycle bearing registration number KL-66A-5371 in a manner so rash and negligent as to endanger human life and thereby committed the offence punishable u/s. 338 of Indian Penal Code?*
4. *Whether the rash or negligent driving of the accused persons resulted in the death of Bhaskaran, 72 years and thereby he committed the offence punishable u/s 304 (A) of Indian Penal Code?*
5. *Whether the accused had driving license to drive and thereby committed offence punishable u/s 3(1) r/w 181 of M.V Act?*
6. *Whether the first accused failed to do mandatory duties as a driver involved in accident and thereby committed offence punishable u/s 146, r/w 196, of Motor Vehicle Act ?*
7. *What is the order as to sentence, if any, to be passed against the accused?*

8. **Point No.1 to 6 :-**In order to avoid repetition, all these points are considered together. The learned counsel for the accused had argued that the prosecution failed to prove the essential ingredient of the offence alleged against the accused by

cogent and reliable evidence, as there were inconsistencies in the version of the independent witnesses and also the medical evidence doesn't support the prosecution case. Hence, the accused is to be acquitted for the offence alleged against him.

9. Per contra, the learned APP submitted that the prosecution had by oral evidence and the documents proved that the accused had driven the vehicle in a rash and negligent manner and it resulted in the death of Bhaskaran aged 72 years and thereby the accused is to be convicted for the offence alleged against him.

10. PW1- Sivadas deposed in examination-in-chief that he couldn't remember the exact date of the incident and he deposed that the vehicle was driven by a person, but he couldn't remember him. He turned hostile to the prosecution. Then a leading question was put to him that the accused had driven the vehicle in rash and negligent manner and in high speed, to which he answered in the affirmative.

11. During cross-examination, he deposed that Santhosh was looking after the affairs of the deceased person and as per the direction of Santhosh, he came to the court for giving evidence. He further deposed that after the collision the vehicle had fell down on the left side.

12. Hence from his evidence it is seen that even though he deposed that he had witnessed the incident, but he turned hostile to the prosecution and also he couldn't

remember the exact date and also he admitted that he is deposing before court as per the instruction of one Santhosh who is looking after the affairs of the deceased person. Hence, his evidence is not helpful to prosecution.

13. PW2- Sisupalan deposed in examination in chief that he only had hearsay knowledge about the alleged incident and he had not witnessed the alleged incident nor he gave any statement before police and his evidence is also not helpful to prosecution.

14. PW3- Lalichan deposed in examination-in-chief that he was working as an auto driver and while he was at his home he got information that an accident took place and it had occurred near Narbhonapuram mosque and he along with one Babu took the deceased Bhaskaran to hospital and later the Bhaskaran succumbed to injuries.

15. During cross-examination, he deposed that he had not given statement to police. Only he was telephoned by the police officials. He also admitted that the police had not asked him regarding taking deceased in his autorikshaw. He also deposed that the Santhosh was looking after the affairs of the deceased Bhaskaran and as per his instruction he came to the court for deposing.

16. PW4- Arun deposed in examination-in-chief that he had witnessed the preparation of Exhibit P1 inquest report. That alone is not sufficient to attribute the offence alleged against the accused.

17. PW5- Sindhu deposed in examination in chief that her uncle was deceased in the road accident. She deposed that on 08.08.2023 at around 03.00 p.m., the accident happened and she got information from a local resident therein and she had lodged Exhibit P2 First Information Statement before police.

18. During cross-examination, she deposed that she does not witness to the incident. She only has hearsay knowledge about the same. Hence, her evidence also will not assist the prosecution.

19. PW6- Girish Kumar deposed in examination-in-chief that he had witnessed the preparation of Exhibit P3 seizure mahazar of the vehicle and he admitted during cross-examination that he doesn't know the content of the same and his evidence is also not helpful to prosecution.

20. PW7- Suresh deposed in examination in chief that he had witnessed the preparation of the inquest of the body of the deceased and he only had hearsay knowledge about the incident and his evidence also will not assist the prosecution.

21. PW8 - Joby Devasya deposed in examination in chief that he had witnessed the preparation of Exhibit P4 seizure mahazar in which the vehicle was seized by the Investigating Officer.

22. During cross-examination he admitted that he doesn't know the content of the same. Hence his evidence also not helpful to the prosecution.

23. PW9- Dr. Bindupriya deposed in examination-in-chief that on 08.08.2023 while she was working as Casualty Medical Officer at Govt. Hospital, Alappuzha at around 03.15 p.m. she had examined a patient named Bhaskaran aged 70 years with alleged history of road traffic accident which occurred at 02.45 p.m. on the same day at Chembumpuram. On examination there was a lacerated wound on the right eyebrow, there was contusion over forehead, contusion on temporal region, multiple abrasion on the right side of his face, abrasion on knee joint, linear abrasion on left leg and she had issued Exhibit P5 certificate and the opinion regarding the injury could be as alleged by the prosecution and she had referred the patient to Medical College Hospital, Alappuzha for further evaluation.

24. From her evidence it is seen that the deceased had sustained injuries on his body part. But by the act of the accused that could be caused cannot be seen from her evidence and moreover the other evidence also doesn't supported the medical

evidence. Hence, the medical evidence is not sufficient to attribute the offence against the accused.

25. PW10- Dr. Pooja deposed in examination-in-chief that on 11.08.2023 while she was working as Medical Officer at Department of Forensic Medicine Govt. Medical College Hospital, Alappuzha she had conducted the post mortem examination on the body of Bhaskaran aged 72 years and there were eight injuries on the body of Bhaskaran and there were contusion and intracranial hemorrhages and her opinion regarding the cause of death is that the death was due to blunt injury sustained to head of the deceased and she had issued Exhibit P6 postmortem certificate and she opined that the death could be as alleged by the prosecution.

26. Hence, from her evidence it is seen that the death of the deceased was due to injury sustained on his head. But that alone is not sufficient to attribute the offence alleged towards the the accused that he had driven the vehicle in a rash and negligent manner so as that the accused sustained those injuries. Hence her evidence also will not assist the prosecution.

27. PW11 - Rajesh deposed in examination in chief that on 09.08.2023 while he was working as Sub Inspector of Police at Nedumudi police, he had registered First Information Report Exhibit P7 and he went to the place of occurrence and prepared Exhibit P3 scene mahazar and he had seized the vehicle which was involved in the

case and thereafter arrested the accused and released him on bail and thereafter collected the post mortem certificate and released the vehicle and handed over it to the owner of the vehicle and thereafter concluded the investigation and submitted charge sheet before court.

28. During cross examination he deposed that in the scene mahazar it was not mentioned that there was blood stain at the place of occurrence. He also admitted that no neighbouring persons were made as witness in the case. He deposed that when he went to the place of occurrence, the accused was not there. He admitted that no CCTV footage was seized from the place of occurrence. He also admitted that he had not conducted any investigation with regard to the accused having any license or the insurance of the vehicle. He also admitted that it cannot be clearly stated that on which part of the vehicle had collided on which part of the body of the deceased and he had not investigated the. He admitted that he had not inquired the same with the medical officer and he had not recorded the dying declaration of the deceased. He also admitted that the other witnesses who were cited as independent witnesses were having only hearsay knowledge about the incident. Then suggestion was put that on 09.08.2023 the accused had not ridden the motorcycle to which he denied the same.

29. Hence from his evidence it is seen that from the place of occurrence no blood stain was reported in the scene mahazar and no neighbouring persons were made any witnesses and there was no CCTV footage seized from the place of occurrence and he admitted that it was not clearly investigated with regard to which part of the vehicle had collided on which part of the body of the deceased and hence, it cannot be seen that the alleged offence was committed by the accused. Hence, his evidence also will not assist the prosecution.

30. Hon'ble Apex Court in Ravi Kapur v. State of Rajasthan reported in AIR 2012 SC 2986 wherein Hon'ble Apex Court held that , whether there exists negligence or the course of conduct, amounts to negligent will normally depend upon the attending and surrounding facts and circumstances which have to be taken into consideration by the court. The court has to adopt another parameter ie,, reasonable care in determining the question of negligence or contributory negligence. The doctrine of reasonable care imposes an obligation or duty upon a person i.e. driver to care for the pedestrian on the road, and this duty attains a higher degree when the pedestrian happens to be of tender age. The other principle that is presided by the courts in such cases is the doctrine of res ipsa loquitur. This doctrine serves two purposes. One that an accident may by its nature be more consistent with its being caused by negligence, for which the opposite party is

responsible than by any other causes and that in such a case the mere fact of the accident is prima facie evidence of such negligence. Secondly, it is to avoid hardship in cases where the claimant is able to prove the accident but cannot prove how the accident occurred. The court have also applied the principle of *res ipsa loquitur* in cases where no direct evidence was brought on record. Two elements or both of which may be proved to establish the guilt of an accused are rashness or negligence. A person may cause death by rash or negligent act which may have nothing to do with driving at all. Negligent and rashness to be punishable in terms of 304A of Indian Penal Code must be attributable to a state of mind wherein the criminality arises because of no error in judgment but of a deliberation in the mind risking the crime as Whereas the life of the person who may lose his life as a result of crime. Section 304 A of Indian Penal Code discloses that criminality may be that apart from any *mens rea*. There may be no motive or intention still a person may venture or practice such rashness or negligence which may cause the death of other. The death so caused is not the determining factor. Reckless means that it would have been apparent to him that there was a real risk of it having. The relevant harmful consequences. But granted, this recklessness covers a whole range of state of mind, from failing to give any thought at all to whether or not there is any risk of those harmful consequences, to recognizing the existence of the

risk and nevertheless decoding, deciding or deciding to ignore it. Criminal negligence is the failure to exercise duty with reasonable and proper care and precaution, guarding against injury to the public generally or to any individual in particular. It is the imperative duty of the driver of a vehicle to adopt such reasonable and proper care and precaution.

31. From the oral evidence of PW2 to PW5 It is seen that they were independent witnesses. But all of them had only hearsay knowledge about the alleged incident. Only the medical evidence which shows that the deceased sustained head injuries. But that was sustained to the deceased by the act of the accused had not come out. When the Investigating Officer himself admitted that his investigation doesn't reveal which part of the body of the Vehicle had collided with the which part of the body of the deceased. Hence the medical evidence alone is not sufficient to attribute the offence alleged towards the accused and hence the prosecution miserably failed in establishing the guilt of the accused beyond reasonable doubt. Hence the accused is entitled to get the benefit of reasonable doubt and the offence alleged cannot be attributed towards him. These points are found against the prosecution.

32. Point No.7:-From point no.1 to 6, it is found that the second accused had not committed the offences alleged against him and hence he is not found guilty of

offence punishable u/s. U/ss. 279, 337, 338 & 304 (A) of Indian Penal Code, 146 r/w 196, 3 (1) r/w 181 of Motor Vehicle Act alleged against him. Hence, he is acquitted for the aforesaid offence u/s.255(1) of Cr.PC. The bail bond of accused stands cancelled and he is set at liberty.

33. Property produced in this will be disposed of after the expiry of period of appeal if no appeal is preferred and if appeal is preferred after the conclusion of appeal.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court on this the 29th day of May, 2026.

sd/-

Judicial First Class Magistrate

APPENDIX

Rank	WITNESSES FOR PROSECUTION:-	Whether Eye witness, Police witness, Expert witness, Medical witness,
PW1	Sivadas	Occurrence witness
PW2	Sisupalan	Occurrence witness
PW3	Lalichan	Other witness
PW4	Arun	Mahazer witness
PW5	Sindhu	informant
PW6	Gireeshkumar	Mahazer witness
PW7	Suresh	Other witness
PW8	Joby Devasya	Police witness
PW9	Dr. Bindhu Priya	Medical Witness
PW10	Dr. Pooja S	Medical witness

PW11	Rajesh N	Police witness
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Exhibits for the prosecution:-

- P1. Inquest Report dated 11.08.2023 proved through PW4 on 14.11.2024.
- P2. First Information Statement dated 09.08.2023 proved through PW5 on 23.12.2024.
- P3. Scene mahazer dated 10.08.2023 proved through PW6 on 17.02.2025.
- P4. Seizure mahazer dated 14.08.2023 proved through PW8 on 02.07.2025.
- P5. Wound certificate dated 08.08.2023 proved through PW9 on 08.01.2025.
- P6. Post mortem certificate dated 11.08.2023 proved through PW10 on 10.03.2026.
- P7. First Information Report dated 09.08.2023 proved through PW11 on 12.05.2025.
- P8. Report from SI of police, Nedumudy police station proved through PW11 on 12.05.2025.
- P9. Notice from Nedumudy police station proved through PW11 on 12.05.2025.
- P10. Reply to notice proved through PW11 on 12.05.2025.
- P11. Report from SI of police, Nedumudy police station proved through PW11 on 12.05.2025.
- P12. Bail bond dated 14.08.2023 proved through PW11 on 12.05.2025.
- P13. Report from SI of police, Nedumudy police station proved through PW11 on 12.05.2025.
- P14. Report from Motor Vehicle Inspector dated 14.08.2023 proved through PW11 on 12.05.2025.
- P15. Post mortem Certificate dated 11.08.2023 proved through PW11 on 12.05.2025.
- P16. Bail bond dated 14.08.2023 proved through PW11 on 12.05.2025.

Witnesses for the defence:-Nil**Exhibits for the defence:-Nil****Material objects :- TR 319/2023**

sd/-

Judicial First Class Magistrate