

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I, NADAPURAM.	
Present:- Smt. Amrutha Aravind Judicial First Class Magistrate-I, Nadapuram.	
Dated, this the 29th day of April, 2026	
<u>CC. 460/2020</u>	
Complainant	: State, Rep.by the Sub Inspector of Police, Nadapuram Police Station (Cr.No. 605/2019) (Rep.By Sri.P.C Jawad., Assistant Public Prosecutor) Vs.
Accused	: Muhammed Basheer, S/o.Aboobacker, aged 29/19, Chudalikkandy(H), Puthoor(PO). (Rep.By Advs. Biju Joseph Kuriachan & Bindu Puthiyarakkal)
offences	: U/ss. 279 and 304 A of IPC
Plea	: Not Guilty.
Finding	: Not Guilty
Sentence or Order	: The accused is acquitted u/s.255(1) of Cr.P.C

DESCRIPTION OF ACCUSED

Sl.N o.	Name	Father's Name	Occupation	Residence	age
1	Muhammed Basheer	Aboobacker	Gulf	Puthoor	29/19

RELEVANT DATES

Occurrence	Complaint	Apprehension	Released on bail	Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Period of detention	Explanation for delay
14.10.19	04.2.20	27.10.19	18.09.20	18.09.20	04.03.24	27.04.26	29.04.2026	Nil	

J U D G M E N T

The accused is put on trial for the offences punishable U/ss.279 and 304 A of IPC .

2. The prosecution case in brief is as follows:- On 14.10.2019 at 17.30 hours at Chelakkad-Kallachi State Highway road at Poosharimukku, the accused drove a car bearing Reg.No.KL-57-N-9019 in a rash and negligent manner so as to endanger human life and hit on the motorcycle bearing Reg.No.KL-18-F-9238 of the informant in this case. The informant fell on the road and sustained grievous injuries on his right leg and back bone and he succumbed to his injuries on 04.11.2019 at 13.42 hours, while undergoing treatment at Baby Memmorial Hospital and thereafter at Medical College Hospital, Kozhikode. The accused is thereby alleged to have committed the above mentioned offences.

3. On appearance of the accused before the court , he was released on bail. Copies of prosecution records were furnished to him U/s. 207 of Cr.P.C. Particulars of offences under U/ss. 279 and 304 A of IPC were stated to the accused, to which he pleaded not guilty and claimed to have defence.

4. On the side of prosecution, PW1 to PW11 were examined and Exts.P1 to Ext. P12 were marked. After closing prosecution evidence, the accused was examined U/s. 313 (1) (b) of Cr.P.C. The accused had denied the incriminating circumstances

brought out against him in the prosecution evidence and maintained to be innocent. No evidence, either oral or documentary, was adduced from the side of defence.

5. Heard both sides.

6. The points that arose for determination are:

- (i) Whether the accused drove a car bearing Reg.No.KL-57-N-9019 in a rash or negligent manner so as to endanger human life?
- (ii) Whether the accused caused death of one Vinodan by driving the car bearing registration No. KL-57-N-9019 in a rash or negligent manner so as to endanger human life?
- (iii) What is the proper sentence to be passed if found guilty?

7. **Point No. (i) and (ii):-** The case arose from the FIS given by the person who died in the alleged accident, before his death. PW1 to PW3 are stated to be the occurrence witnesses in this case.

8. PW1 deposed that the alleged accident happened on 14.10.2019 between 5.30 p.m and 5.45 p.m. When he reached Poosharimukku on his autorickshaw, he saw a person lying on the road after accident. He took the person to VIMS hospital Kallachi and subsequently he came to know that the person died. PW1 deposed that he did not witness the alleged accident and hence he could not depose as to the reason for the accident. As per the version of PW1 he reached the place of occurrence after the accident. He saw a car at the place of occurrence. However he did not see the driver of the car. He denied to have given statement to the police to the effect that he witnessed the alleged accident and that the reason for the accident was the negligent driving of the car driver.

9. PW2 deposed that the alleged accident happened on 14.10.2019 at about 5.00 p.m. He was travelling in an autorickshaw from Kallachi to Chelakkad. When he reached Poosharimukku, a motorcycle was being ridden to the pocket road after turning on right indicator, in front of their autorickshaw. Then a white colour car bearing registration no.KL-57-L-9019 over took the autorickshaw and hit on the motorcycle. The person who rode the bike was taken to Kallachi VIMS Hospital. The reason for the accident is the negligent driving of the car driver.

10. PW3 deposed that the alleged accident occurred on 14.10.2019 at 5.30 p.m at Poosharimukku. When he was walking on the road, he heard a noise and when he looked back, he saw the accident. The person who rode the motorcycle got injured and he was taken to hospital. He deposed that the reason for the accident is the negligence of the car driver who over took the autorickshaw and hit on the motorcycle. The registration number of the car involved in the case was KL-57-L-9019.

11. As per the evidence of PW3, he looked back when he heard the noise. However he states that the car driver negligently over took the autorickshaw and hit on the motorcycle. From the evidence led by PW3, it is not possible that he witnessed the accident since he looked back on hearing the noise of the accident. He admitted in the cross examination that he did not witness the accident and he had only hearsay knowledge about the reason for the accident. Hence his version regarding the reason for the accident cannot be accepted.

12. PW2 and PW3 deposed that they could identify the person who drove the car which caused the accident. However, PW2 and PW3 have no case that they have any prior acquaintance with the accused. The accused was not identified by PW2 and

PW3 at the investigation stage. As per the prosecution version, PW2 and PW3 saw the accused for the first time on date of accident, i.e., on 14.10.2019. PW2 was examined before the court on 04.03.2024 and PW3 was examined on 25.03.2025. The accused was absent on the dates on which they were examined. Even though PW2 and PW3 deposed that they could identify the person who drove the car, it is doubtful how they can identify a person after 4 ½ years and 5 ½ years respectively, without seeing him at any stage after the date of incident, that too without any prior acquaintance. Hence this court is of the opinion that mere dock identification by PW2 and PW3 cannot be given much weightage. Hence this court is of the opinion that the material witnesses could not identify the accused as the person who negligently drove the car which caused the accident.

13. PW4 is the witness to Ext.P1 scene mahazar. PW6 is the doctor who conducted postmortem examination of the person who died in the accident and who issued Ext.P3 postmortem examination certificate. She deposed that the person died due to the injuries sustained by him. PW7 is the AMVI who prepared Ext.P4(a) and P4(b) reports after inspecting the car and the motorcycle respectively. He deposed that the accident did not happen due to the mechanical defects of the vehicles. PW8 is the witness to Ext.P5 inquest report. PW11 is the police officer who recorded Ext.P11 FIS and PW9 is the police officer who registered Ext.P6 FIR on the basis of Ext.P11. PW10 is the investigating officer in this case. He deposed as to the steps taken by him during the course of investigation.

14. The learned counsel for the accused argued that the prosecution witnesses failed to identify the model of the car allegedly caused the accident. PW5 is the witness to Ext.P2 body mahazar. He deposed that he witnessed the seizure of the motorcycle and the car involved in the accident. PW5 deposed that the car seized by

PW10 was white colour Maruthi Swift car. PW10, the investigating officer, deposed in the examination in chief that the car seized by him was Maruti Swift car. The learned counsel for the accused confronted PW10 regarding the difference in the model of the car as noted in Ext.P4(a) AMVI report. Then PW10 corrected his version in re-examination and deposed that the car was Mauti Ritz model and he mistakenly noted it as Maruti Swift in Ext.P2 body mahazar. PW10 did not have a case in examination in chief that the vehicle model was mistakenly noted in Ext.P2. Only when the learned counsel for the accused confronted him regarding the difference, he corrected it. Otherwise his case in examination in chief was that the car was of Maruti Swift model. The version of mistake as deposed by PW10 can only be considered as an introduction of a new case in re-examination which cannot be allowed.

15.The learned counsel for the accused argued that the identity of the car involved in this case is seriously doubted. In Ext.P2 body mahazar and as per the evidence of the investigating officer, the car was of Maruti Swift model Car. PW5, who witnessed the seizure of the car also deposed that it was Maruti Swift car. From this it can only be understood that the vehicle seized by the police is a Maruti Swift car. The AMVI did not depose the model of the car before the court. However, as per Ext.P4(a) AMVI report, it is Maruti Ritz car. Hence the vehicle which was inspected by the AMVI was not the one which was seized by the police. As there is contradiction regarding the model of the car which involved in the accident, benefit of doubt shall be given to the accused. The prosecution has failed to establish the identity of the car which allegedly caused the accident.

16. Even though it is proved that the informant got injured in a road traffic accident and subsequently he succumbed to his injuries later, the testimonies of the

material witnesses could not establish that the accused is the person who drove the car which caused the accident. Moreover, the identity of the car which caused the accident is also under suspicion. This court is of the opinion that the difference in the model of the car resulted from some kind of fabrication happened at the time of investigation. This court is forced to hold that the prosecution has not succeeded in proving the guilt of the accused beyond reasonable doubt and the accused is entitled to benefit of doubt. Hence these points are answered against the prosecution.

17. **Point No. (iii):-** In the light of the findings on Point Nos. (i) and (ii), the accused is found not guilty of the offences punishable U/ss. 279 and 304 A of IPC and he is acquitted U/s. 255 (1) Cr. P.C. His bail bond stands cancelled and he is set at liberty.

18. No material objects were produced in this case.

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

JUDICIAL FIRST CLASS MAGISTRATE -I
NADAPURAM.

APPENDIX

WITNESSES EXAMINED FOR PROSECUTION

Rank	Name	Whether Eye witness, police witness, Expert witness, Medical Witness, other witness
PW1	Anil Kumar.C.V, S/o.Krishnan	(CW1/eye witness)
PW2	Shaju, S/o.Kunjappa Nambiar	(CW2/eye witness)
PW3	T.P.Babu, S/o.Chekkayi	(CW3/other witness)

PW4	Vinod Babu, S/o.Narayanan	(CW4/other witness)
PW5	Roopesh.P, CPO 8957, Nadapuram P.S	(CW6/police witness)
PW6	Dr.Priyatha.P, Assist.Professor & Assist Police Surgeon, Kozhikode	(CW9/medical witness)
PW7	C.A.Baby, AMVI, Vatakara	(CW8/other witness)
PW8	Pradeepan.M.M, S/o.Kumaran	(CW10/other witness)
PW9	Azeez.V.K, SCPO 9612, Nadapuram P.S	(CW12/police witness)
PW10	Prajeesh.N, SI of Police, Nadapuram P.S	(CW13/police witness)
PW11	Shamsudheen, SCPO Nadapuram P.S	(Additional witness)

EXHIBITS MARKED FOR PROSECUTION:

Sl.No	Date	Exhibit number	Description
1	Dt: 17.10.19	Ext.P1/PW4	Scene mahazar
2	Dt:17.10.19	Ext.P2/PW5	Body mahazar
3	Dt:05.11.19	Ext.P3/PW6	Postmortem certificate
4	Dt:24.10.19	Ext.P4(a)/PW7	AMVI report
5	Dt: 24.10.19	Ext.P4(b)/PW7	AMVI report
6	Dt:05.11.19	Ext.P5/PW8	Inquest report
7	Dt: 16.10.19	Ext.P6/PW9	FIR
8	Dt: 05.11.19	Ext.P7/PW10	Report to alter section
9	Dt: 27.10.19	Ext.P8/PW10	Kychit
10	Dt:27.10.19	Ext.P9/PW10	Kychit
11	Dt: 27.10.19	Ext.P10/PW10	Arrest memo
12	Dt: 27.10.19	Ext.P11/PW10	Bail bond
13	Dt:16.10.19	Ext.P11/PW11	FIStatement
14	Dt:16.10.19	Ext.P11(a)/PW11	Bodynote
13	Dt: 10.12.19	Ext.P12/PW10	Report to add name and address of accused in case records

WITNESS EXAMINED FOR ACCUSED:

NIL

EXHIBITS MARKED FOR ACCUSED :

NIL

MOS MARKED :

JUDICIAL FIRST CLASS MAGISTRATE -I
NADAPURAM.