

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS- II,
SOUTH PARAVUR, KOLLAM**

**Present :- Ms. Athira Chandran U.B.,
Judicial Magistrate of the First Class.**

Saturday, the 6th day of June, 2026/ 16th day of Jyeshtham, 1948

Calendar Case No. 1743/2015

Complainant : State - Represented by the Sub Inspector of Police,
Chathannur Police Station in Crime No. 251/2013.

*(Represented by Smt. Dhanya A. S.,
Assistant Public Prosecutor-II, Paravur)*

Accused No. : Jithin, Aged 36, S/o. Madhusoodhanan,
Jithin Villa, Thazham North, Meenadu Village.

(Represented by Adv. I K Krishnakumar)

Charge : Under sections 279 and 304A of IPC.

Plea : Not Guilty

Finding : Not Guilty

Sentence/Order : The accused is acquitted u/s. 255(1) of Cr. PC for the offences punishable under sections 279 and 304A of IPC. Bail bond executed by the accused stands cancelled and he is set at liberty.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name of the Police Station and the Crime No. of the offence	Name and Rank	Father's Name	Occupation	Residence	Age
1.	Chathannur Police Station crime no. 251/2013	Jithin	Madhusoodhanan	--	Jithin Villa, Thazham North, Meenadu Village.	36

DATE OF

Occurrence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Commencement of evidence	Close of trial
10.02.2013	26.03.2013	05.01.2024	05.01.2024	--	05.01.2024	15.04.2025	05.06.2026

Sentence or Order	Service of copy of judgment or finding on accused	Explanation for delay	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr. PC
06.06.2026	--	No Delay	--

This case having been finally heard on 05.06.2026 and the Court on 06.06.2026, delivered the following:-

J U D G M E N T

This case arose on a final report filed by the Sub Inspector of Police, Chathannur Police Station in crime no. 251/2013 against the accused alleging offences punishable under sections 279 and 304A of the Indian Penal Code, 1860 (herein after referred as IPC).

2. The prosecution case is that on 10.02.2013 at about 9.00 p.m., the accused, while driving an autorickshaw bearing Registration No. KL-02 AM-5017, drove the autorickshaw in a rash and negligent manner so as to endanger human life. When the autorickshaw reached the junction on the Pallimon–Puliyila Road at Elavoor Cheri in Pallimon Village, it collided with a motorcycle bearing Registration No. KL-02 AM-5157, which was being ridden by the son of the brother of CW1. As a result of the impact, the rider was thrown onto the road and sustained grievous injuries. He was immediately

taken to Azeezia Medical College Hospital, Meeyannoor, for treatment, but was declared dead on examination by the doctor. According to the prosecution, the accident occurred solely due to the rash and negligent driving of the accused, thereby constituting offences punishable under Sections 279 and 304A of the Indian Penal Code.

3. First Information Statement was given before CW15, SI, Chathannur Police Station on 11.02.2013. The First Information Report was registered by CW15 on that date. Final report was filed by CW15 before this court and cognizance was taken by this court on 26.03.2013 for the offences punishable under sections 279 and 304A of IPC and the case was taken on the files of Judicial First Class Magistrate Court, Paravur as CC 246/2013. It was transferred to this court after the establishment of this court and taken on file as CC No. 1743/2015.

4. Upon issuance of summons, the accused appeared before the court and he was released on bail. Copies of all relevant prosecution records were furnished to him U/s. 207 of the code of criminal procedure, 1973 (hereinafter referred as Cr.P.C). Upon perusal of the prosecution records and after hearing both parties, particulars of offences read over against the accused under sections 279 and 304A of the IPC. When the particulars of offence was

read over and explained to the accused, he pleaded not guilty and claimed to be tried.

5. On the side of the prosecution PW1 to PW3 were examined and Ext. P1 to Ext. P13 were marked. CW1, CW2 and CW15 were examined as PW2, PW1 and PW3 respectively. The presence of CW7 could not be secured in spite of issuance of all coercive steps. Other witnesses were given up by the learned Assistant Public Prosecutor as no purpose will be served and will only end in waste of valuable time of court. As there exist no incriminating circumstances against the accused in prosecution evidence, the examination of accused under section 313(1)(b) of CrP.C was dispensed with. No defence evidence was adduced.

6. Heard both sides and perused the records.

7. Considering the rival contentions and available materials on record, points that arose for consideration are as follows:-

1. Whether on 10.02.2013 at about 9.00 p.m., at the place of occurrence, the accused drove the autorickshaw bearing Registration No. KL-02 AM-5017 in a rash and negligent manner so as to endanger human life and thereby committed an offence punishable under Section 279 IPC?

2. Whether by the said rash and negligent act, the accused caused the death of the rider of motorcycle bearing Registration No. KL-02 AM-5157 and thereby committed an offence punishable under Section 304A IPC?
3. If the accused are found guilty what shall be the order as to sentence?

8. **As to Point No. 1 and 2 :-** Considering the overlapping nature of the points and to maintain the brevity, these points are considered together.

PW1 was examined as a witness to the inquest proceedings. He deposed that he was present when the Investigating Officer conducted the inquest over the body of the deceased in this case. However, on verification, it was found that the inquest report did not bear his signature.

9. PW2, the informant who had given the First Information Statement to the police, was examined. He deposed that the deceased was the son of his younger brother and that the incident occurred in the year 2013 at about 9.00 p.m. He further deposed that another vehicle had hit the motorcycle ridden by the deceased and that the injured was thereafter taken to the hospital.

10. He identified his signature in the First Information Statement, which was marked as Ext.P1. During cross-examination, he deposed that he was not a witness to the alleged incident and that he had only hearsay knowledge regarding the same.

11. PW3, the Investigating Officer, was examined. He deposed in tune with the prosecution case and stated that he had registered the FIR in this case. He further deposed that he had worked along with CW14 and identified the signature of CW14 in the First Information Statement. He also identified his signature in the FIR, which was marked as Ext.P2. He further deposed that the inquest was conducted by CW14 and identified the signature of CW14 in the inquest report, which was marked as Ext.P3. PW3 also deposed that he had prepared the scene mahazar, which was marked as Ext.P4. The vehicle mahazar was marked as Ext.P5. The notice issued to the registered owner of the vehicle involved in the accident was marked as Ext.P6 and the reply thereto was marked as Ext.P7. The report regarding the correct name and address of the accused was marked as Ext.P8. The AMVI reports were marked as Exts.P9 and P10. The property list relating to the vehicles produced before the Court

was marked as Ext.P11. The bail bond executed by the accused was marked as Ext.P12. The post-mortem certificate was marked as Ext.P13 through him. In cross-examination, PW3 denied the suggestion that he had filed the final report without conducting a proper investigation and without bona fide belief.

12. To bring home an offence under Sections 279 and 304A IPC, it is not sufficient to prove the occurrence of an accident or the resultant death. The prosecution must further establish that the accident was the direct consequence of the rash or negligent act of the accused.

13. In the present case, PW1 was examined as a witness to the inquest proceedings. His evidence does not in any manner advance the prosecution case regarding the occurrence of the accident, the identity of the driver, or the manner in which the vehicle was driven.

14. PW2 is the informant in the case. Though he deposed that the deceased was the son of his younger brother and that another vehicle had hit the motorcycle ridden by the deceased, he specifically admitted during cross-examination that he was not an eyewitness to the occurrence and that he had

only hearsay knowledge regarding the incident. Therefore, his evidence cannot be relied upon to prove either the manner of occurrence of the accident or the alleged rashness and negligence on the part of the accused.

15. PW3 is the Investigating Officer. His evidence primarily relates to the registration of the crime and the various steps taken during investigation. Through him, Exts.P1 to P13 were marked. However, it is settled law that the evidence of the Investigating Officer cannot by itself prove the occurrence of the incident in the manner alleged by the prosecution, unless supported by substantive evidence. The documents marked through PW3 also do not establish that the accused was driving the vehicle in a rash or negligent manner at the relevant time.

16. It is pertinent to note that no eyewitness to the occurrence has been examined before the Court. Though coercive steps were taken, the presence of CW7 could not be secured. The remaining material witnesses were given up by the prosecution. Consequently, there is no direct evidence before the Court regarding the manner in which the accident occurred.

17. The post-mortem certificate and other documentary evidence may indicate that the deceased sustained injuries and subsequently died. However, such evidence by itself is insufficient to establish that the death was the result of any rash or negligent act attributable to the accused. Likewise, the scene mahazar and AMVI reports do not, in the absence of supporting oral evidence, establish the essential ingredients of the offences alleged. In the present case, the prosecution has failed to adduce reliable and cogent evidence to establish that the accused drove the autorickshaw in a rash and negligent manner or that such act resulted in the death of the deceased.

18. Accordingly, this Court finds that the prosecution has failed to prove the offences punishable under Sections 279 and 304A IPC against the accused beyond reasonable doubt. Point Nos. 1 and 2 are answered in the negative.

19. **As to Point No. 3:-** In the view of the findings of point no. 1 and 2, there is no question of passing any sentence against the accused.

In the result, the accused is found not guilty of the offences punishable under sections 279 and 304A of IPC and the accused is acquitted

u/s. 255(1) Cr. PC for the offences punishable under sections 279 and 304A of IPC. Bail bond executed by the accused stands cancelled and he is set at liberty.

The interim custody of the vehicle produced in this case as per T. No. 75/2013 shall be absolute after the appeal period.

(Dictated to the Confidential Assistant directly, corrected and pronounced by me, in open court, on this the 6th day of June, 2026.)

Sd/-

**Judicial Magistrate of the First Class- II,
Paravur**

APPENDIX

Witnesses for prosecution :-

Prosecution witness no.	Name of Witness	Description
PW1	Mr. Shijukumar (CW2)	Inquest witness
PW2	Mr. Ajayan (CW1)	Defacto complainant
PW3	SI Justin John (CW15)	Investigating Officer

Exhibit for prosecution:

Exhibit No.	Description of the Exhibit	Proved by /Attested by
P1	First Information Statement dated 11.02.2013	PW2 on 04.06.2025
P2	First Information Report dated 11.02.2013	PW3 on 10.11.2025
P3	Inquest report dated 11.02.2013	PW3 on 10.11.2025
P4	Scene mahazar dated 12.02.2013	PW3 on 10.11.2025
P5	Vehicle Mahazar dated 15.02.2013	PW3 on 10.11.2025
P6	Notice dated 15.02.2013	PW3 on 10.11.2025

P7	Reply of notice dated 15.02.2013	PW3 on 10.11.2025
P8	Address report dated 15.02.2013	PW3 on 10.11.2025
P9	MVI report dated 16.02.2013	PW3 on 10.11.2025
P10	MVI report dated 16.02.2013	PW3 on 10.11.2025
P11	151 A form dated 12.02.2013	PW3 on 10.11.2025
P12	Bail bond	PW3 on 10.11.2025
P13	Postmortem certificate dated 11.02.2013	PW3 on 10.11.2025

Witnesses for Defence :-

Prosecution witness no.	Name of Witness	Description
Nil		

Exhibit for Defence:

Exhibit No.	Description of the Exhibit	Proved by /Attested by
Nil		

Material Objects :-

Material Object No.	Description of the Exhibit	Proved by/Attested by
Nil		

Sd/-

**Judicial Magistrate of the First Class-II,
Paravur**