

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

**Present :- Smt. Chithralekha N S,  
Judicial Magistrate of the First Class**

**Thursday, the 26<sup>th</sup> day of March, 2026/5<sup>th</sup> day of Chaithram, 1948**

**Calendar Case No. 532/2015**

Complainant : State - Represented by the Sub Inspector of Police,  
Chathannur Police Station in Crime No. 261/2013.  
*( By Assistant Public Prosecutor, Paravur)*

Accused : Abdul Kalam Asad, Aged 58, S/o. Badarudeen,  
Nisha Bhavan, Kanjavayal, Eroor Village.  
*(Represented by Adv. V Deepesh)*

Charge : Under sections 279, 337 and 304A of IPC.

Plea : Not Guilty

Finding : Not Guilty

Sentence/Order : The accused is acquitted u/s. 255(1) Cr. PC for the  
offences punishable under sections 279, 337 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	Father's Name	Age	Residence	Taluk
1.	Abdul Kalam Asad	Badarudeen	58	Nisha Bhavan, Kanjavayal, Eroor Village.	Kollam

**DATE OF**

Occurrence	Complaint	Apprehension / appearance	Release on bail	Commencement of trial	Close of trial	Sentence or Order	Explanation for delay
03.02.2013	07.06.2013	19.03.2020	19.03.2020	17.03.2021	26.03.2026	26.03.2026	No delay

This case having been finally heard on 26.03.2026 and the Court on said day, delivered the following:-

### **J U D G M E N T**

This case was taken cognizance upon a final report filed by the Sub Inspector of Police in Crime No. 261/2013 of Chathannur Police Station alleging the commission of offences under sections 279, 337 and 304A of the Indian Penal Code, 1860 (for short – 'IPC').

2. The prosecution case in brief is as follows:- At 3.00 pm on 03.02.2013 the accused drove the car bearing no. KL-07-BK-8679 rashly and negligently and dashed against the motor cycle bearing no. KL-25A-6911 ridden by the son of PW4 who sustained grave injuries to head and succumbed to his injuries while undergoing treatment in Medical Collage Hospital, Thiruvananthapuram on 18.03.2013. Hence the accused is alleged to have committed the offences punishable under sections 279, 337 and 304A of IPC.

3. Upon receipt of the final report, this court took cognizance of the offences and issued process against the accused. The accused entered appearance and he was enlarged on bail. He was represented by a lawyer of his choice. Particulars of offences punishable under sections 279, 337 and

304A of IPC were read over and explained to the accused. He pleaded not guilty and claimed to be tried.

4. As per the Final Report, altogether fourteen witnesses were proposed from the side of prosecution. Among them, CW1, CW3, CW4, CW5 and CW14 were examined as PW4, PW1, PW2, PW3 and PW5 respectively and Ext.P1 to P15 were marked from the side of prosecution. The presence of CW2 could not be secure in spite of issuance of all coercive measure. 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 the court. The accused were thereafter examined u/s. 313 Cr. PC. He denied all incriminating circumstances which appeared in evidence against him. Hence the defence was invited for presenting evidence. No evidence was adduced from the side of defence.

5. The matter was considered for final decision after hearing the learned Assistant Public Prosecutor and the learned counsel who appeared for the accused. Perused the relevant records.

6. The points which arose for consideration are:

1. Whether the accused at 3.00 pm on 03.02.2013 drove the car bearing no. KL-07-BK-8679 rashly and negligently on a public way endangering human life or in a way likely to

cause hurt to any person attracting the offence punishable u/s. 279 of IPC?

2. Whether the accused at 3.00 pm on 03.02.2013 drove the car bearing no. KL-07-BK-8679 rashly and negligently and caused hurt to the victims attracting the offence punishable u/s.337 of IPC?
3. Whether the act of the accused resulted in death by doing the rash and negligent act attracting the offence punishable u/s.304A of IPC?
4. If found guilty, what order as to sentence?

7. **As to Point Nos. 1 to 3** - For the sake of convenience and brevity, point nos.1 to 3 are considered together.

PW1 would submit that the incident was an accident near Muttakkavu when a car dashed against the bike in which her son travelled following which she lodged Ext. P1 First Information Statement before police. PW1 was examined as an occurrence witness who refused to have witnessed the incident. He submitted to be away from the place of incident when the occurrence happened. PW2 and PW3 were attestors to the inquest report marked as Ext. P2.

8. PW5 was the Station House Officer of Chathannur Police Station. He registered Ext. P3 First Information Report based on the First Information

Statement. On identifying the signature of CW12 the scene mahazar was marked as Ext. P5. The notice to the registered owner of the offending vehicle was issued by CW12 which was marked as Ext. P6. The reply to notice was marked as Ext. P7 and the mahazar prepared regarding the vehicles involving in the case was marked as Ext. P8. Ext. P9 and P10 are the inspection report submitted on conducting the inspection of the vehicles involved in the accident. The address report of the accused was submitted by CW12 and was marked as Ext. P11. The accused was arrested and released upon executing Ext. P12 bail bond. The postmortem certificate and wound certificate obtained and produced before court were marked as Ext. P14 and P15.

9. Sec. 279 IPC reads as follows:- *“Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”*

Sec. 337 IPC reads as follows:- *“Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may*

*extend to five hundred rupees, or with both.”*

Sec. 304A IPC reads as follows:- *“Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”*

10. The prosecution witnesses who were introduced as witnesses to the occurrence have turned hostile to the prosecution. Therefore there was lapse in procuring evidence that the accused was the rider of the offending vehicle. None of the key witnesses have identified the accused to be the offender. The exact cause of accident was not revealed through evidence. The materials placed before court not even remotely hint that there was any conduct on part of accused that was rash or negligent. The vital evidence to establish the offences is that the accused was rash or negligent in driving his car. In the absence of such evidence the accused cannot be held liable for rash and negligent driving and causing death or hurt as consequence. Therefore the prosecution evidence is inadequate to prove the essentials of alleged offences. The guilt of the accused stands not proved.

Hence, points nos. 1 to 3 stand not proved.

11. **As to Point No. 4:-** In view of the discussions on point nos. 1 to 3, the accused is found not guilty to the offences punishable under sections

279, 337 and 304A of IPC. Hence, he is only to be acquitted for the said offences.

In the result:-

The accused is acquitted u/s. 255(1) Cr. PC for the offences punishable under sections 279, 337 and 304A of IPC. Bail bond executed by the accused stands cancelled and he is set at liberty.

Dictated to the Confidential Assistant directly, corrected and pronounced by me, in open court, on this the 26<sup>th</sup> day of March, 2026.

Sd/-

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

### **APPENDIX**

#### **Witnesses for prosecution :-**

Prosecution witness no.	Name of Witness	Description
PW1	Biju (CW3)	Occurrence witness
PW2	Shyrendranadh (CW4)	Occurrence witness
PW3	Aneesh Babu (CW5)	Occurrence witness
PW4	Ambika (CW1)	Defacto complainant
PW5	Justin John (CW14)	Investigating officer.

#### **Exhibit for prosecution:**

Exhibit No.	Description of the Exhibit	Proved by /Attested by
P1	Portion of sec. 161 Cr. PC Statement	PW1
P2	Inquest report	PW2

P3	First Information Statement	PW2
P4	First Information Report	PW5
P5	Scene mahazar	PW5
P6	Notice	PW5
P7	Reply to notice	PW5
P8	Vehicle mahazar	PW5
P9	Test certificate	PW5
P10	Test certificate	PW5
P11	Address report	PW5
P12	Bail bond	PW5
P13	Section alteration report	PW5
P14	Postmortem certificate	PW5
P15	Wound certificate.	PW5

**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**