

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
PAYYANNUR**

Present: Kum. Lakshmipriya. T. K.,
Judicial First Class Magistrate.

Tuesday, the 31st day of March, 2026/10th day of Chaithra, 1948

CALENDER CASE NO.776/2018

Complainant : The SHO, Payyannur Police Station,
Crime No.201/2018,

(By APP Grade – I, Payyannur)

Accused : Biju Mathew, S/o Mathew, Aged 45/18,
Ozhukkil House, Ayarod, Chullikkara, Kodom
amsom, Kasaragod Dist.

(By Sri. Muraleedharan Kuthoor, Advocate)

Offence : U/s 279,337,338 & 304A of IPC

Plea : Not Guilty.

Finding : Not Guilty.

Sentence or Order : (i) Accused is acquitted u/s 255(1) of Cr.P.C.

(ii) The Innova car bearing registration No.
KL 05 AB 8800 which has been released to
the owner vide kachit, shall become
absolute after the expiry of the appeal
period.

DESCRIPTION OF ACCUSED

Sl. No.	Name of the P.S.& No. Cr. of offence	Name	Father's Name	Occupation	Residence	Age
1.	Payyannur Cr.no. 201/18	Biju Mathew,	Mathew	Kodom	45/18

Date of:

1. Occurrence	: 13.02.2018
2. Complaint	: 13.02.2018
3. Apprehension	: 26.02.2018
4. Release on bail	: 26.02.2018
5. Commitment	: ...
6. Commencement of trial	: 27.02.2022
7. Commencement of evidence	: 25.08.2022
8. Close of trial	: 26.03.2026
9. Sentence or order	: 31.03.2026
10. Service copy of judgment	: Copy is ready
11. Explanation for delay	: No delay
12. Period of detention undergone during investigation, inquiry or trial for the purpose of section 428 CrPC	: ...

This case came up for consideration during today's proceedings and the court delivered the following: -

J U D G M E N T

1. This is a case instituted upon the final report filed by Sub Inspector of police Payyannur Police Station in Cr. No.201/2018 for the offence punishable u/s 279,337,338 & 304 A of IPC.

2. **Prosecution case in brief is as follows:** On 13.02.2018 at 05.30 hours, in front of Alternate Parts at Kandoth in Vellur amsom, the accused driven an Innova car bearing registration No. KL 05 AB 8800 in a rash and negligent manner from Kannur side to Kanhangad side and hit on a tree while giving side to the vehicle from the opposite side and caused grievous injury to Johny O M and CW2 Jobin Johny and sustained simple injury to CW3, CW4 and CW5, who

were the passenger of the car. Further it is alleged that the injured Johny OM succumbed to death on 13.02.2018 from Mangalapuram Thejaswini hospital. Thereby the accused committed the offences punishable u/s 279,337,338 and 304 A of IPC.

3. The court took cognizance of offences and issued process against the accused. On appearance of accused, copies of all relevant prosecution records were furnished to him. Particulars of offences were stated to him to which he pleaded not guilty and claimed to be tried.

4. On the side of prosecution PW1 to PW8 were examined and Ext. P1 to Ext P13 series were marked. PW1, the defacto-complainant turned hostile to prosecution. CW6 to CW8, the material witnesses did not turn up before the Court in spite of coercive steps were taken against them and other witnesses were given up by the learned Asst. Public Prosecutor. After completing examination of the other available witnesses prosecution evidence closed. After closing the prosecution evidence, accused was questioned u/s 313(1)(b) of Cr.PC. Accused denied all the incriminating circumstances that appeared in evidence against him. Thereafter the accused was called upon to enter his evidence, but no defence evidence was adduced on behalf of the accused.

5. Heard both sides.

6. Point arise for consideration:

1) Whether the accused driven the Innova car bearing registration No.

KL 05 AB 8800 on 13.02.2018 at 05.30 hours, in front of Alternate Parts at Kandoth in Vellur amsom on a public road in a rash and negligent manner so as to endanger the human life and thereby committed the offence u/s 279 of IPC?

2) Whether accused drove his vehicle in a rash or negligent manner and caused hurt by an act which endangers human life and thereby committed the offence u/S 337 of IPC ?

3) Whether the accused driven the Innova car bearing registration No. KL 05 AB 8800 in a rash and negligent manner and caused grievous hurt to CW2 and thereby committed the offence u/s 338 of IPC?

4) Whether the accused driven the Innova car bearing registration No. KL 05 AB 8800 in a rash and negligent manner and caused the death of one Johny and thereby committed the offence u/s 304 A of IPC ?

5) If the offence is proved, what is the order as to sentence?

7. **Points No. 1 to 4:** These points are considered together for the sake of convenience. Prosecution has examined 8 witnesses. CW1, the defacto-complainant is examined as PW1. He deposed that the deceased Johny is his relative and Johny died in a road traffic accident at Kandoth on 13.02.2018 at 05.30 pm. He further deposed that he has not seen the accident and he has given complaint which is marked as Ext.P1.

8. PW2 deposed that on 10.02.2018 he along with his family members gone to the house of sister of his father at Idukki in an Innova car bearing No. KL 05 AB 8800. When they were returning from there on 13.02.2018 at 05.30 am

met with an accident at Kandoth and all passengers in the car was sustained injury and his father was died in the accident later. He further deposed that he has not known the cause of accident and the driver of the vehicle. He turned hostile to the prosecution case.

9. PW3 to PW5 are the passengers in the car. They categorically deposed that when they were returning from Idukki on 13.02.2018, an accident was happened at Kandoth and they all sustained injury in the incident and Johny died in the accident. They further deposed that they have not known the cause of accident and the driver of the vehicle. They also turned hostile to the prosecution case. They further deposed that they have no complaint against the accused as the matter has been settled between them.

10. PW6 is the police official at Payyannur PS who deposed that while he was on GD charge duty on 13.02.2018 at 18.30 hours he recorded the Ext.P1 FI statement of one J Philip and he has registered the crime which is marked as Ext.P2 and he identified Ext.P1.

11. PW7 is the Sub Inspector of Payyannur PS who deposed that on 14.02.2018 he took over the investigation of the case and conducted the inquest of the body of deceased Johny from Mangalapuram Thejaswini hospital and the inquest report is marked as Ext.P3. He further deposed that he has prepared scene mahazar in the presence of witnesses which is marked as Ext.P4 and the place of occurrence is the road at Kandoth in Payyannur amsom. The name and

address report of the accused is marked as Ext.P5 and he has arrested the accused and released on bail and the bail bond is marked as Ext.P6. He further stated that he has prepared body mahazar of Innova car bearing No. KL 05 AB 8800 which is marked as Ext.P7, the MVI report of the vehicle is marked as Ext.P8. He further deposed that he has released the vehicle to the RC owner as per kachit which is marked as Ext.P9 and the site plan is marked as Ext.P10, postmortem certificate is marked as Ext.P11 and the section 338 of IPC adding report is marked as Ext.P12. He has produced the wound certificate of CW2, 3 and 5 which are marked as Ext.P13 series. He further deposed that he has recorded the statement of CW1 to CW18 and he has completed the investigation and filed charge sheet against the accused.

12. PW8 is the attestor of scene mahazar who deposed that he has witnessed the preparation of scene mahazar and he signed in the scene mahazar as a witness and he identified Ext.P4 scene mahazar.

13. I have gone through the entire evidence on record. It is the case of the prosecution that On 13.02.2018 at approximately 05:30 hours, in front of Alternate Parts at Kandoth in Vellur Amsom, the accused was driving an Innova car bearing registration number KL 05 AB 8800 in a rash and negligent manner, proceeding from Kannur towards Kanhangad. While attempting to give way to an oncoming vehicle, the accused lost control and the car collided with a roadside tree. As a result of the accident, Johny O.M. and CW2 Jobin Johny sustained

grievous injuries, while CW3, CW4, and CW5, who were also passengers in the car, suffered simple injuries. It is further alleged that Johny O.M., who had sustained severe injuries, succumbed to death. PW1 is the defacto complainant and PW2 to PW5 are the injured who travelled in the car. and PW6 and PW7 are the official witness. PW6 is the officer who recorded the statement of defacto complainant and registered the Ext.P2 FIR. PW7 is the investigating officer and Ext.P3 to P13 series marked. In the cross examination of PW7 it is stated that the shop owners near the place of accident were not examined. PW8 is the scene mahasar witness.

14. PW1, the defacto complainant, testified about the incident and the place and date of the incident but he has only hearsay knowledge about the accident. He categorically deposed that he was not in the place of accident and he was informed by the people gathered there. Hence his evidence is not enough to prove the guilt of the accused. PW2 to PW5 were the injured witness and relatives of the deceased and they categorically deposed about the incident and the fact that all the passengers in the car were injured in this accident. But all of them stated that they didn't know about the reason for the accident and the driver and number of the vehicle and thus all of them turned hostile to the prosecution. Though the learned Asst. Public Prosecutor is permitted to cross examine them as contemplated u/S 154 of Indian Evidence Act, but nothing could be brought out to discredit their evidence before this court.

15. Apart from the injured witnesses, the police officers and scene mahasar witness were examined. Through their oral testimony no incriminating evidences were brought before the court to find out the complicity of the accused in this case. Likewise, the Scene Mahazar witness doesn't give any indication as to the effect that the accident was occurred due to the negligence of the accused. None of the witnesses examined by the prosecution deposed that the accident was occurred due to the negligence of the accused and none of them identified that the accused had driven the vehicle at the relevant time of incident.

16. To bring home the guilt of accused person, the prosecution was required to prove the offence under section 279,337,338, 304A IPC beyond reasonable doubt. The star witnesses of the prosecution i.e., the complainant and eye witnesses have turned completely hostile. There is no evidence to link the accused with the crime charged against them. Further, the ingredients of the offence are not fulfilled from the material on record. In the present case, as already noted above, the prosecution could not discharge the onus of proving the ingredients of offences in question and thus, the accused persons are entitled to benefit of doubt. In the absence of loyal and reliable evidence of an independent occurrence witness, the evidence of the official witness does not require further consideration to find the guilt of the accused. In short, the available evidences are insufficient to prove the guilt of the accused.

17. Ongoing through the entire evidence, I find that the prosecution has not succeeded to prove the case against the accused beyond reasonable doubt. The prosecution couldn't bring the material evidence before the court. Hence these points are answered against the prosecution and find that the accused is found not guilty of the offence alleged against him.

18. **Point No.4:** In view of my findings on point No. 1 to 3, accused is found not guilty of the offence punishable u/s 279,337,338 & 304A of IPC.

In the result,

(i) Accused is acquitted u/s 255(1) of Cr PC of the offences punishable u/s 279,337,338 & 304A of IPC and his bail bond stands cancelled and he is set at liberty.

(ii) The Innova car bearing registration No. KL 05 AB 8800 which has been released to the owner vide kachit, shall become absolute after the expiry of the appeal period.

(Dictated to Confidential Assistant, transcribed and typed her, corrected and pronounced by me, in open court this on the 31st day of March, 2026.)

Sd/-
Judicial First Class Magistrate,
Payyannur.

APPENDIX:
WITNESSES FOR THE PROSECUTION :

PW1	K J philip	Defacto complainant
PW2	Jobin Jhony	Injured witness
PW3	Moli Johny	Injured witness
PW4	Anna Chacko	Injured witness
PW5	Saji O M	Injured witness
PW6	Rajesh K V	Police witness
PW7	Asokan K K	Investigating Officer
PW6	Anilkumar	Scene mahazar witness

EXHIBITS FOR THE PROSECUTION:

Ext.P1/PW1	F I Statement dtd. 13.02.18
Ext.P2/PW6	FI Report dtd. 13.02.18
Ext.P3/PW7	Inquest report dtd. 14.02.18
Ext.P4/PW7	Scene mahazar dtd. 17.02.18
Ext.P5/PW7	Name and address Report of accused dtd. 26.02.18
Ext.P6/PW7	Bail bond dtd.26.02.18
Ext.P7/PW7	Body Mahazar dtd.17.02.18
Ext.P8/PW7	MVI inspection report dtd.27.02.18
Ext.P9/PW7	Kachit dtd. 27.02.18
Ext.P10/PW7	Site plan dtd.10.04.18
Ext.P11/PW7	Postmortem certificate of deceased dtd. Nil.
Ext.P12/PW7	Section adding report dtd.09.03.18
Ext.P13/PW7	Wound certificate of Jobin Johny dtd. 15.02.18
Ext.P13(a)/PW7	Wound certificate of Moly dtd. 15.02.18

MATERIAL OBJECTS MARKED :

Nil

WITNESSES FOR THE DEFENCE :

Nil

EXHIBITS FOR THE DEFENCE :

Nil

MATERIAL OBJECTS MARKED :

Nil

Sd/-
Judicial First Class Magistrate,
Payyannur.

//True copy//

Judicial First Class Magistrate,
Payyannur.