

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

Present: Kum. Laksh mipriya. T. K.,
Judicial First Class Magistrate.

Thursday, the 30th day of April, 2026/10th day of Vaisakha, 1948

CALENDER CASE No.1972/2020

Complainant : The SHO, Payyannur Police Station,
Crime No.1200/2019

(By APP Grade – I, Payyannur)

Accused : Rajeevan K V, S/o Kunhiraman K V, Aged 42/19,
Koliyadan Kuthirummal Veed, Kunnaru,
Ramanthali amsom.

(By Adv. Sri. D. K. Gopinathan & Adv. Sri. Shiju
Puthiyapurayil)

Offence : U/s 279, 304A of IPC

Plea : Not Guilty.

Finding : Not Guilty.

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

The motorcycle bearing registration No. KL 13 J 7186 and KSRTC bus bearing registration No. KL 15 7814 which have been released to the owners vide kachits, 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.1200/19	Rajeevan K V	Kunhiraman K V	Kunnaru	42/19

Date of:

1. Occurrence : 13.12.2019
2. Complaint : 13.12.2019

3. Apprehension	: 19.12.2019
4. Release on bail	: 19.12.2019
5. Commitment	: ...
6. Commencement of trial	: 13.02.2023
7. Commencement of evidence	: 29.10.2024
8. Close of trial	: 28.04.2026
9. Sentence or order	: 30.04.2026
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

This is a case initiated upon police report filed by Sub Inspector of police Payyannur Police Station in Cr. No. 1200/2019 for the offence punishable u/s 279, 304 A of IPC.

2. **Prosecution case in brief is as follows:** On 13.12.2019 at 09.15 hours at Kandoth North in Vellur amsom, the accused has driven a KSRTC bus bearing registration No. RAC 631, KL 15 7814 in a rash and negligent manner from Payyannur side to Vellur side and hit the motorcycle bearing registration No. KL 13 J 7186 driven by Vivek, the friend of CW1 from Vellur side to Payyannur side and he fell down in the road and sustained grievous injury in his head and chest and succumbed to death. Thereby the accused said to have been committed the aforesaid offences.

3. The court took cognizance of offences and issued process against accused. On appearance of accused, copies of all relevant prosecution records

are 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 PW9 were examined and Ext P1 to P21 documents were marked. CW1/defacto complainant, did not turn up before the Court in spite of coercive steps taken against him. CW3 is reported no more and death certificate produced. After examining the available witnesses, the Learned Asst. Public Prosecutor rightly given up the remaining witnesses and the prosecution evidence closed. After witnesses for the prosecution was examined, 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. Points arise for consideration:

1) Whether on 13.12.2019 at 09.15 hours at Kandoth North in Vellur amsom, the accused has driven a KSRTC bus bearing registration No. RAC 631, KL 15 7814 in a rash or negligent manner so as to endanger human life or to be likely to cause hurt and thereby committed the offence u/s 279 of IPC?

2) Whether the accused had driven a KSRTC bus bearing registration No. RAC 631, KL 15 7814 in a rash or negligent manner and caused death of one Vivek and thereby committed the offence u/s 304A of IPC?

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

7. **Points No. 1 & 2:** These points are considered together for the sake of convenience. Prosecution has examined 9 witnesses in total and Ext.P1 to Ext.P21 documents were marked.

8. CW1/defacto complainant did not turn up before the Court in spite of coercive steps taken against them. CW3 is reported no more and death certificate produced.

9. CW5 is the attestor of scene mahazar who deposed that he is residing at Puthinyankavu and on 13.12.2019 when he was travelling in a bike, he saw an accident with a bike and bus at Kandoth North and he signed in the scene mahazar which is marked as Ext.P1. But he further deposed that he has not known the number and driver of the vehicles. He turned hostile to the prosecution case. 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.

10. PW2 is the Sr.CPO of Payyannur PS who deposed that on 13.12.2019 evening he witnessed the preparation of body mahazar of the motorcycle and KSRTC bus bearing registration No. KL 13 J 7186 and KL 15 7814 by Sub Inspector Manoharan and the body mahazar is marked as Ext.P2.

11. PW3 deposed that he is the RC owner of the Splender bike bearing registration No. KL 13 J 7186 and he has sold the same to one Vaisakh and the RC was not changed and the deceased Vivek is the younger brother of Vaisakh.

12. PW4 is the conductor of KSRTC bus who deposed that on 13.12.2019 he was the conductor in RAC 631 number KSRTC bus and when the bus reached at Vellur Puthiyankavu, a bike came and hit on the bus. He further deposed that he has not seen the incident and the cause of accident is the negligence of bike rider. The attested copy of way bill is marked as Ext.P3.

13. PW5 is the Inspector of KSRTC Payyannur Depot at the time of incident. He deposed that he has produced the attested copy of log sheet, RC, way bill, driving license, duty certificate to the investigating officer and the documents were attested by DTO and he is no more. He has known the handwriting and signature of DTO. The attested copy of RC, permit and insurance of the bus are marked as Ext.P4, P5 & P6 respectively. The way bill and log sheet of the bus is marked as Ext.P3 & P7 respectively. The copy of driving license of the accused is marked as Ext.P8 and duty certificate is marked as Ext.P9. He further deposed that he has received the vehicle after examination as per kachit and the kachit is marked as Ext.P10.

14. PW6 is the SHO of Payyannur PS who deposed that on 13.12.2019 he recorded the FI Statement of one Suresh K which is marked as Ext. P11. He further deposed that he has registered the crime No.1200/19 u/s 279, 304A of IPC and the FIR is marked as Ext.P12.

15. PW7 is the Joint RTO who deposed that on 03.01.2020 he issued RC Particulars of KL 13 J 7186 Hero Honda motorcycle on requisition of SI which is

marked as Ext.P13. As per Ext.P13 the registered owner of the vehicle is one Deepesh, S/o Dhakshayani, Pannalath (H), Edat.

16. CW2 is the eyewitness to the incident who is examined as PW8. He deposed that on 1.12.19, while he was travelling in a bike when he reached at Kandoth Annur Road, a crowd was seen and found that a bus and bike met with an accident and the injured was one Vivek and his head was seen broken. He further deposed that he has not known the number of the bus and bike and the driver of the bus and the cause of accident. He turned hostile to the prosecution case. Though the learned Asst. Public Prosecutor is permitted to cross examine them as contemplated u/S 154 of Indian Evidence Act/157 of Bharatiya Sakshya Adhinyam, but nothing could be brought out to discredit their evidence before this court.

17. PW9 is the Grade SI of Payyannur PS, he has taken over the investigation of the crime No.1200/19 u/s 279 & 304A of IPC on 13.12.2019 and conducted the inquest of the body of deceased Vivek from Pariyaram Medical College hospital and prepared Ext.P14 inquest report. Further he deposed that on the same day at 04.30 hours he prepared Ext.P1 scene mahazar from the place of occurrence in the presence of witnesses and he identified Ext.P1. He further stated that he has prepared Ext.P2 body mahazar of KSRTC bus and motorcycle from the police station compound and he identified the same. He further deposed that he has seized the Ext.P3 to P9 documents produced by KSRTC Depot Inspector named Sunil kumar as per seizure mahazar

which is marked as Ext.P15 and he identified Ext.P3 to P9 documents. He further deposed that he has produced the inspection reports of the vehicles issued by CW14 which are marked as Ext.P16 and Ext.P16(a) respectively. He has produced the Ext.P13 RC particulars of motorcycle issued by CW13 and he identified Ext.P13. He further deposed that he has released the vehicles to the owners as per kachits and the kachit of motorcycle is marked as Ext.P17 and he identified Ext.P10 kachit of KSRTC bus. He further deposed that he has arrested the accused and released on bail and the arrest memo and bail bond are marked as Ext.P18 and P18(a) respectively. He has produced the site plan collected from CW15 which is marked as Ext.P19 and postmortem certificate of the deceased is marked as Ext.P20. The name and address report of the accused is marked as Ext.P21. He further deposed that he has recorded the statement of CW1 to CW16 and he has completed the investigation and filed charge sheet against the accused.

18. I have gone through the entire evidence on record. The prosecution's case is that the accused drove a KSRTC bus bearing registration numbers RAC 631 and KL 15 7814 in a rash and negligent manner from Payyannur towards Vellur. In doing so, the bus collided with a motorcycle bearing registration No. KL 13 J 7186, which was being ridden by Vivek, a friend of CW1, traveling from Vellur towards Payyannur. As a result of the impact, Vivek was thrown onto the road, sustained grievous injuries to his head and chest, and subsequently succumbed to death.

19. Learned counsel for the accused argued that there is no eye witness and there is no evidence on record to incriminate the accused. On perusal of records it is found that CW1/defacto complainant, did not turn up before the Court in spite of coercive steps taken against him. CW3 is reported no more and death certificate produced. PW1, PW4 and PW8 are the eye witness and they turned hostile to the prosecution case. PW1 deposed about the whole incident that the accident was between a bus and bike. He took the injured to the hospital and he also deposed that it was a KSRTC bus. But he further deposed that the number of both vehicles could not be remembered and the drivers of both vehicles could not be identified. PW2 is the officer who witnessed the preparation of body mahasar and Ext.P2 is marked through him. PW3 is the RC owner of the vehicle but he deposed that the vehicle was sold to Vaishak but RC was not changed at that time. He further deposed that he came to know that the brother of vaisak met with an accident. In the cross examination he deposed that he didn't produce any document to show that the vehicle was sold to vaishak. He further deposed that one year prior to the accident the renewal date was over. PW4 is the conductor of that KSRTC bus and he deposed that an accident occurred between the bus and the bike. He deposed about the number of the bus and he further stated that he was inside the bus and didn't see the accident. He further deposed that the cause of accident is negligence of the driver of the bike. He also produced the way bill to the police which is marked as Ext.P3. He also identified the driver of the bus

who was present in the court. But later he turned hostile to the prosecution. Though the learned Asst. Public Prosecutor is permitted to cross examine both of them as contemplated u/S 154 of Indian Evidence Act, but nothing could be brought out to discredit their evidence before this court. In his cross examination he stated that in the way bill the whole details of the accused is not mentioned. PW8 is yet another eye witness and he also deposed about the incident in which vivek met with the accident but later he turned hostile.

20. PW5 is the inspector of KSRTC depot and he Ext.P4 to P10 are marked through him. In the cross examination he deposed that it was the negligence of the bike driver due to which accident occurred. PW7 is the joint RTO and Ext.P13 is marked through

21. PW6 and 9 are police officers. PW6 is the officer who recorded Ext.P11 FIS and registered Ext.P12 FIR. PW9 is the investigating officer and Ext.P14 to P21 are marked through him. In his cross examination he admitted that it was stated by CW10 that the accident occurred due to the over speed of the bike. He further deposed that validity of the RC was already expired and admitted that at the time of accident the vehicle was not having valid RC. Moreover, he also admitted that in Ext.P16 (a) it was stated that the vehicle was not in a running condition at the time of accident. Thus they deposed various roles played by him during investigation and the same is not enough to prove the guilt of the accused.

22. Thus all the eye witness has turned hostile to the prosecution but the identity of the driver of KSRTC bus was proved by PW4 and way bill and other particulars were produced by PW5. Further PW4 identified the accused from the dock and he testified that the accused was driving the vehicle at the relevant time but he categorically deposed that the accident occurred due to the negligence of the deceased. In order to substantiate this point, the counsel argued that the RC of the bike driven by the deceased was already expired and that vehicle was not in a running condition at that time. It was also deposed by PW9 that the evidence of CW10 is to the effect that the deceased had driven the vehicle in over speed. Thus from the evidence produced before the court, the negligence of the accused is not proved by the prosecution.

23. Thus the eye witnesses have turned hostile to the prosecution and some of them deposed about the negligence of the deceased instead of the accused. The official witness could only have deposed about the roles played by them. Apart from that no evidence is produced to prove the guilt of the accused beyond reasonable doubt. Though PW3 the RC owner deposed about the sale of the vehicle he has not produced any document to prove the same. Apart from that nothing is coming forth from the evidence of this witness to connect the accused with the alleged crime. In order to convict the accused, it has to be proved that the accused has driven the vehicle and it was driven in a rash and negligent manner which would be normally proved by the eye witness but in this present case all eye witnesses have turned hostile to the prosecution and the

presence of other eye witnesses could not have procured as he is no more. Thus there is no other oral testimony which will help the prosecution to improve their case. Since there are no eye witnesses to support the case of prosecution, the Learned Asst. Public Prosecutor has rightly given up the remaining witnesses. All other witnesses cited are the Motor vehicle inspector, KSRTC depot inspector and official witness. The prosecution has failed to cite independent witness and examine before the court. Likewise, the other witnesses also doesn't give any indication 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.

24. To bring home the guilt of accused person, the prosecution was required to prove the offence under section 279, 304A IPC beyond reasonable doubt. The star witnesses of the prosecution i.e., the complainant has not turned up before the court and the another eye witnesses have turned completely hostile. There is no evidence to link the accused persons 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 is entitled to benefit of doubt. In the absence of loyal and reliable evidence of an independent occurrence witness, the evidence of the offi-

cial 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.

25. Ongoing through the entire evidence, I find that the prosecution has not succeeded to prove the case against the accused beyond reasonable doubt. Therefore, having considering all the facts and circumstances of the case, I am of the view that the prosecution has miserably failed to prove the case against the accused beyond reasonable doubt. Hence, this court finds that the accused is found not guilty of the offence alleged against him. Hence these points are answered against the prosecution.

26. **Point No.3:** In view of my findings on point No. 1 & 2, accused is found not guilty of the offence punishable u/s 279 & 304 A of IPC.

In the result,

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

(ii) The motorcycle bearing registration No. KL 13 J 7186 and KSRTC bus bearing registration No. KL 15 7814 which have been released to the owners vide kachits, 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 30th day of April, 2026)

Sd/-
Judicial First Class Magistrate,
Payyannur.

APPENDIX:
WITNESSES FOR THE PROSECUTION

PW1	Subash	Scene mahazar witness
PW2	Santhoshkumar	Police Witness
PW3	Deepesh	Other witness/RC Owner of the vehicle
PW4	Ramesan	Conductor/Eye witness
PW5	K P Sunil	Official Witness
PW6	Dhananjaya Babu	Police Witness
PW7	B Saju	Other witness/Joint RTO
PW8	Kripesh	Eye witness
PW9	Manoharan	Investigating officer

EXHIBITS FOR THE PROSECUTION:

Ext.P1/PW1	Scene Mahazar dtd.13.12.19
Ext.P2/PW2	Body Mahazar dtd.13.12.19
Ext.P3/PW4	Copy of way bill dtd.13.12.19
Ext.P4/PW5	Attested copy of RC dtd.24.06.09
Ext.P5/PW5	Attested copy of Permit dtd.14.07.09
Ext.P6/PW5	Attested copy of Insurance dtd.Nil.
Ext.P7/PW5	Attested copy of Log sheet dtd.13.12.19
Ext.P8/PW5	Attested copy of license dtd.02.02.98
Ext.P9/PW5	Duty certificate dtd.13.12.19
Ext.P10/PW6	Kachit of KSRTC bus dtd.16.12.19
Ext.P11/PW6	F I Statement dtd.13.12.19
Ext.P12/PW6	F I Report dtd. 13.12.19
Ext.P13/PW6	RC Particulars of the motorcycle dtd.03.01.20
Ext.P14/PW6	Inquest report dtd.13.12.19
Ext.P15/PW6	Seizure Mahazar dtd.14.12.19
Ext.P16/PW6	MVI inspection report of bus dtd.16.12.19

Ext.P16(a)/PW6 MVI inspection report of motorcycle dtd.16.12.19
Ext.P17/PW6 Kachit of motorcycle dtd. Nil.
Ext.P18/PW6 Arrest memo dtd.19.12.19
Ext.P18(a)/PW6 Bail bond dtd.19.12.19
Ext.P19/PW6 Site plan dtd.Nil
Ext.P20/PW6 Postmortem certificate of deceased dtd.14.12.19
Ext.P21/PW6 Name and address report of accused dtd. 19.12.19

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.