

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I, PALA

Present: Smt. Shermin S.S.,
Judicial First Class Magistrate Court- I, Pala

Saturday the 18th day of April, 2026/28th day of Chaithra, 1948

CC.229/2016

Complainant : State represented by the Sub Inspector of Police,
Ramapuram Police Station in Crime No.198/2016.

(Rep.By Smt. Hima A.R, APP Gr.II, Pala)

Accused : Albin Joseph, aged 38 yrs, S/o Joseph Thomas,
Mailadiyil House, Kizhathadiyoor, Lalam.
Now residing at Mundiyanickal house,
Mundankal Kara, Lalam

(Rep. By Adv. Joby Thomas)

Offence Punishable U/ss.279, 337, 304(A) of IPC

Plea : Not guilty.

Finding : Not guilty.

Sentence/Order : The accused is acquitted U/s.255(1) Cr.P.C for
the offences punishable under section 279, 337,
304(A) of IPC. His bail bond stands cancelled and
he is set at liberty.

Description of accused

Name	Father's/ Husband's name	Age	Calling	Residence	Taluk
Albin Joseph	Joseph Thomas	38	-	Mailadiyil	Meenachil

DATE OF

offence	Report of complaint	Apprehe nsion of accused	Released on bail	Commenc ement of trial	Close of trial	Sentence or order	Expln.for delay and remarks
28.2.16	28.1.26	13.10.16	13.10.16	10.2.17	17.4.2026	18.4.2026	No delay

This case having been finally heard and on this day, the court delivered the following:-

JUDGMENT

This case is instituted on a final report filed by S.I of police, Ramapuram and the accused was put to trial under section 279, 337, 304(A) of IPC.

2. **The case of the prosecution is as follows:** On 28/02/2016 at 11.15 p.m, accused drove motor cycle bearing Reg.No.KL-35/C 8441, in a rash or negligent manner endangering human life, through Ramapuram - Pala public road, when it reached at Puthuveli bridge, it hit on a motorcycles bearing Reg.No. KL-08/AA-3193, KL-35/C 8441 respectively. A person named Vipin Babu, who is the rider of KL-08/AA-3193 succumbed to death at the place of the alleged accident. CW2, who is the pillion rider of the aforesaid motorcycle and accused also sustained injuries. The motorcycles were damaged in the alleged accident. Thereby accused alleged to have committed offences punishable u/s.279, 337, 304(A) of Indian Penal Code (hereinafter IPC).

3. On appearance of the accused, copies of relevant prosecution records were furnished to him. After considering the police report, documents submitted along with that report and after hearing both sides, on being satisfied that there were grounds to proceed against the accused, particulars of offence punishable U/s.279, 337, 304(A) of IPC, read over, explained and asked to which he pleaded not guilty and claim to be tried.

4. The case was posted for prosecution evidence. On the prosecution side, PW1 to PW24 were examined and Exhibits P1 to P16, MO.1 to MO.3 were marked. On

closing of the prosecution evidence, accused was examined u/s 313(1)(b) of the Code of Criminal Procedure, 1973 regarding the incriminating circumstances made out against him in the prosecution evidence. He denied the allegations levelled against him and pleaded innocence. Even though sufficient opportunities had given, no evidence adduced from the side of defence.

5. Heard both sides.

6. From the above facts and evidence, following points are raised for consideration:-

1. *Whether on 28/02/2016 at 11.15 p.m, accused drove motor cycle bearing Reg.No.KL-35/C 8441,in a rash or negligent manner endangering human life as alleged by the prosecution and thereby committed offence punishable U/s.279 of IPC?*
2. *Whether on 28/02/2016 at 11.15 p.m, aforesaid act of the accused caused hurt to any person so as to endanger human life or the personal safety of others as alleged by the prosecution and thereby committed offence punishable U/s.337 of IPC?*
3. *Whether on 28/02/2016 at 11.15 p.m, aforesaid act of the accused caused the death of one Vipin Babu as alleged by the prosecution and thereby committed offence punishable U/s.304 A of IPC?*
4. *Sentence or order?*

7. **Point No. 1 to 3** :- For the brevity of discussion, the following points are considering together.

8. The case of the prosecution is that On 28/02/2016 at 11.15 p.m, accused drove motor cycle bearing Reg.No.KL-35/C 8441, it hit on a motorcycles bearing Reg.No. KL-08/AA-3193 and KL-35/C 8441 respectively. The rider of KL-08/AA-3193, one Mr.Vipin Babu succumbed to death and CW2 and accused sustained injuries and motorcycles were damaged in the alleged accident.

9. CW1 is examined as PW1. His evidence is that his staff Mr. Vipin succumbed to death on a bike accident occurred on 28.02.2016. For which he made statement before the police. He identified his signature in FI statement. It is marked as Exhibit P1. He stated that he didn't know the driver of the vehicle. Negligence and over speed of the vehicle was the reason for accident. In the cross-examination, he stated that he had only hearsay knowledge about the accident.

10. CW2 was examined as PW2. He was the pillion rider of the bike who met with accident. He suffered injuries. His evidence is that along with deceased, as pillion rider who was traveling from Pala to Kurinji, a bike coming from opposite side hit their bike. The person who ride the vehicle coming from opposite sode was present before the court. He identified the accused. Overspread and negligence of the accused was the reason for the accident. In the cross-examination, he stated that it was a rainy day. He was sitting behind deceased. He heard a sound and while skidding the bike, he knew about the accident. He didn't know the place where the accident took place.

11. CW3 is examined as PW3. He deposed that on 28.02.2016 at 15.00 p.m. at Vellilapally, the alleged accident occurred by colliding two motorbikes. The bike coming from Ramapuram was in wrong side and it hit the bike which was coming

from Pala. Person present in the Court is the person who ride the vehicle from Ramapuram and he was in wrong side and this is the reason for the accident. He didn't remember the registration numbers of bikes. He informed the incident to the police. In the cross-examination PW3 stated that it was a Sunday. It was a rainy day and heavy rain on that day. He saw two bikes within a difference of 3 meters. After 5 minutes, police reached to the place of occurrence.

12. CW20 is examined as PW4. His evidence is that while he was Working in Ramapuram Police on paravu duty on 28.02.2016 at 11.15 p.m based on the phone call Regarding a bike accident, he immediately proceeded to the place of occurrence. When he reached there, he saw a person who was lying on road besides a bike bearing registration number KL-08-AA-3193. He was seriously injured in his head and due to this injury helmet can not be removed. Another bike bearing reg no.KL35 C 8441 was also there.

13. CW5 was examined as PW5. He is an occurrence witness. His evidence is that accident occurred due to the collision of two motorbikes. Person who drove the bike coming from Pala side was no more. He didn't know the fact that upon whose negligence the accident occurred. CW6 was examined as PW6. His evidence is that the incident occurred due to the collision of bikes, he did not saw the accident. CW4 was examined as PW7. He did not witness the accident. CW12 was examined as PW8. He was present at the time of inquest. CW14 was examined as PW9. He was also present at the time of inquest. CW15 was examined as PW10. He was also present at the time of preparation of inquest report. CW13 was examined as PW11. His evidence is that

accident occurred at Ramapuram. He is the attester of Exhibit P2 inquest report. CW17 was examined as PW12. He received the bike of deceased Vibin Babu on third party kaicheet and it is marked as Ext. P3. CW18 was examined as PW13. He received the bike involved in the accident through Exhibit P4 kaicheet.

14. CW7 was examined as PW14. He stated that he know Albin. CW9 was examined as PW15. His evidence is that he is a tempo driver. His vehicle number is KL673904. He know the bike accident which is occurred at Ramapuram. He stated that accused made a complaint before DYSP that the accident was caused due to the negligence of vehicle driven by him. He stated that after service he parked his vehicle at Jarin's house. Thereafter he came before DYSP. In the cross-examination he stated that he had trip sheet of the service.

15. CW8 was examined as PW16. His evidence is that on 28/2/2016 his vehicle bearing Reg.No KL-67-3904 is given for taxi service. CW9 was the driver. Police enquired over phone that whether his vehicle involved in any accident, and he answered that no such incident took place. In the cross examination he deposed that he had hearsay knowledge about the accident. He had taxi service and trip sheet for each vehicles were kept at this office. Journey and time of journey is entered in trip sheet. He stated that he produced trip sheet to police, he added that he shown trip sheet to police. He sold this vehicle in the month of December, after clearing finance. Defence counsel asked a suggestion that whether his minor niece named Ashker drove the vehicle and met with accident, he denied that suggestion.

16. CW10 is examined as PW17. His evidence is that he was a lecturer at Mar Augustienos College. He stated that he know Albin, who was his student. While returning from Armini beer parlor, he saw Albin. He turned hostile to the prosecution case. CW26 is examined as PW18. He prepared scene plan of place while he was working as Village officer at Vellilappallay Village Office. He identified his signature in site plan. It is marked as Ext.P5. In the cross examination, he stated that he prepared site plan on the basis of scene mahazer.

17. CW23 is examined as PW19. While he was working as CMO at General Hospital Pala. On 28/2/2016 at 11.45 p.m, he examined 27 yrs old male named Albin Joseph came with alleged history of RTA. On examination, multiple liner abrasion below left knee. Lacerated wound 6x3x lionne deep above right eye brow. Bilateral peri critical odema. Bleeding from nose and lacerated wound 3x2x2 cm below nose. Patient was referred to higher centre. He issued Ext.P6 wound certificate. Same day he examined one Vipin Babu, 24 yrs old with alleged history of RTA. Patient was brough dead to the casualty. Central bone fracture, Cranial cavity exposed. Minor abrasion on right arm and shoulder. He issued wound certificate, It is marked as Ext.P7. On the same day he examined one Mr. Njanasundaram, aged 18 yrs old male came with alleged history of RTA. On examination, right chest bone tenderness present. Minor abrasion on left hand and dorsum. Minor abrasion on left calf. Patient was referred to higher centre for surgery and ortho consultation. He issued wound certificate, it is marked as Ext.P18.

18. CW25 is examined as PW20. He is the RTO, Uzhavoor. He inspected KL 35-C-8441 motor cycle and issued Ext.P 9 inspection report. No mechanical defects were noted. He noticed damages. On the same day he inspected KL-8AA-3139 vehicle and no mechanical defects were noted for which, he issued Ext.P10 inspection report. CW27 is examined as PW21. He recorded Ext.P11 FIR based on Ext.P1 FIS.

19. CW24 is examined as PW22 who conducted post mortem of Vipin Babu on 29/2/2016. While he was working as Medical Officer in department of Forensic medicine, MCH, Kottayam. Postmortem certificate is marked as Ext.P12. On examination, there were 12 antimortem injuries of which injury 1-6 are found to be fatal.

20. CW28 is examined as PW23. His evidence is that while he was working as Additional SI, he took over the investigation and prepared scene mahazer. It is marked as Ext.P13. Through Ext.P13, seized two vehicles. Inquest report of Vipin Babu is identified as Ext.P2. Inspection report of two vehicles are marked as Ext.P9 and P10. These vehicles are released on 3rd party bond, it is marked as Ext.P3 & P4. Property list of seizure of vehicles parts are marked as Ext.P14. He identified fiber body part of bike, blue in colour, is identified as MO.1 series(2 in numbers). Ring of head light is marked as MO.2. Lower part of tool box of bike is marked as MO.3. Address report of accused is marked as Ext.P15. Postmortem certificate is marked as Ext.P12. After completion of investigation, he filed final report. In the cross examination, he stated that the accused is also injured seriously. Witnesses deposed that it was a rainy day. No marks of braking is found in road.

21. CW24 is examined as PW24. As per order of District Police Chief, he took over the further investigation of this case and on investigation it is understood that KL 673904 is not involved in this accident and filed final report. In the cross examination, PW24 stated that accused also got injured. It is recorded in the wound certificate. Two bike and one tempo traveler is present in the place of occurrence. He deposed that trip sheet and waybill of tempo traveler is not produced as part of investigation.

22. Prosecution relies on the above evidence to prove the prosecution case. On the other hand, the accused contented that he is innocent of the allegations levelled against him. Hence it is necessary to put the evidence to scrutiny.

23. The evidence of PW1 shows that he have only hearsay knowledge about the accident. Evidence of PW2 shows that he was the pillion rider of the bike who met with the accident. Over speed and negligence of the accused was the reason for the accident. From his evidence, it is clear that it was a rainy day. He was siting behind deceased and he heard a sound while skiding the bike, then only he knew about the accident. He didn't know the place of accident. This shows that he have no clear cut knowledge about the accident. CW3 is the occurrence witness, his evidence also shows that it was a rainy day. He informed the accident to police. PW5 was an occurrence witness, he turned hostile to the prosecution case. PW6 made a statement that he didn't know about the accident. Evidence of PW15 shows that he is the driver of tempo bearing Reg.No. KL-67-3904, and accused made a complaint before DYSP against him with an allegation is that accident occurred due to his negligence. From the evidence of PW24, it is understood that KL-67-3904 is not involved in this accident.

Presence of this vehicle is denied by PW14. In the examination of PW24, there was three vehicles at that place of occurrence. Trip sheet and way bill of tempo traveller is not produced as part of investigation. From the available evidence from the side of prosecution, it is not clear that how the investigating officer reached the conclusion regarding the presence of tempo traveller in the place of occurrence. This create a doubt regarding prosecution case.

24. PW18 is the Vellilappally Village Officer, who prepared cite plan of place of occurrence and she stated that she prepared cite plan based on the scene plan. This can not be considered into evidence.

25. There is medical evidence regarding injuries. But there is no sufficient evidence to connect the accused with the accident. Hence there is no direct evidence to connect the accused with the crime. The learned defence counsel argued that accused never drove the vehicle in a rash or negligent manner. There is no evidence from the eye witnesses that accused was negligent while he was driving the vehicle. In the absence of the reliable evidence to prove the case, benefit of doubt have to be given in favour of the accused and the point no.1 to 3 is found against the prosecution.

26. **Point No.4:-** In view of the findings of the above said point, the accused is entitled for an acquittal and hence these point does not arise for consideration.

In the result, the accused is found not guilty of the offences punishable U/s 279, 337, 304(A) of IPC and thereby acquitted U/s 255(1)CrPC. His bail bond stands cancelled and set at liberty.

MO.1 series to MO.III series shall be destroyed after the period of appeal.

Mos 1 & 2 in T.139/16 shall be destroyed after the period of appeal.

(Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open court on this the 18th day of April, 2026.)

Judicial First Class Magistrate-I,
Pala.

Appendix

Witnesses examined for the prosecution

- PW1 : Sabu Kuriakose(CW1)
- PW2 : Njana sundharan(CW2)
- PW3 : Binu K.V(CW3)
- PW4 : Saji K.S (CW20)
- PW5 : Amal(CW 5)
- PW6 : Akhil (CW6)
- PW7 : Arun(CW4)
- PW8 : Sureshkumar(CW12)
- PW9 : Aneesh(CW14)
- PW10: Aneesh Jayaprakash(CW15)
- PW11: Nibu Francis(CW13)
- PW12: Sunu Baby(CW17)
- PW13: Joseph Thomas(CW18)
- PW14: Jose Joseph(CW7)
- PW15: Alan M Thomas(CW9)
- PW16: Jeril Joy(CW8)
- PW17: Sumesh(CW10)
- PW18: Priya K Nair(CW26)
- PW19: Dr. Linto (CW23)
- PW20: P.A Nazar(CW25)
- PW21: Saju T Likose(CW27)
- PW22: Dr. Jidhin(CW24)
- PW23: A.R Mohanan(CW28)

PW24:Joy Mathew(CW29)

Exhibits marked for the prosecution:

- Ext. P1 : FIS proved by PW1
P2 : Inquest report proved by PW11
P3 : 3rd party Kacheet
P4 : 3rd party Kacheet
P5 : Site plan proved by PW18
P6 : Wound certificate proved by PW19
P7 : Wound certificate proved by PW19
P8 : Wound certificate proved by PW19
P9 : AMVI report proved by PW20
P10 : AMVI report proved by PW20
P11 : FIR proved by PW2
P12 : Postmortem certificate proved by PW22
P13 : Scene mahazer proved by PW23
P14 : Property list proved by PW23
P15 : Address report proved by PW23
P16 : copy of order of SP proved by PW24

Witnesses examined for the defence: NIL

Exhibits marked for the defence: NIL

Material Object Marked :

MO.1.Series :Fiber piece of bike proved by PW23

MO.II series : Bike Head light proved by PW23

MO.III series: Tool Box cover proved by PW23

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