

IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS, ERATTUPETTA

Present:- Sri. Krishna Prabhan. R,
Judicial Magistrate of the First Class , Erattupetta

Friday, 24th day of April, 2026 / 4th day of Vaisakha, 1948

CC 253/2020

Complainant	:	State represented by the Sub Inspector of Police, Melukavu Police Station, in Crime No. 381/2020 (By APP, Erattupetta)
Accused	:	Joseph Joseph, Aged 45/20 S/o. Joseph Chacko, Mattath (H) Vechuchira P.O, Sydicate Kara Kollamula Village , Pathanamthitta (By Adv. MP Mohammed Shaji)
Offences	:	Punishable u/s. 279 & 304 A of IPC
Plea	:	Not guilty
Finding	:	Not guilty
Sentence or order	:	Accused is found not guilty of the offences punishable under sections 279 & 304 A of IPC and acquitted u/s. 255(1) of Cr.P.C.

Description of Accused

Name	Age	Father's/Husband's Name	Calling	Residence	Taluk
Joseph Joseph	45/20	Joseph Chacko	Driver	Kollamula	-

Dates of

Occurrence	Complaint	Apprehension	Release on bail	Commencement of trial	Close of trial	Sentence or order
11/06/20	01/10/20	19/06/20	19/06/20	23/08/23	24/04/26	24/04/26

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

J U D G M E N T

1. This is a case instituted on a police report filed by the Sub Inspector of Police, Melukavu Police Station in Crime No. 381/20 alleging that the accused had committed the offences punishable under sections 279 & 304 A of IPC.

2. **The case of the prosecution in nutshell is as follows:**

On 11.06.2020 at about 10:30 a.m., at Kollapally, the accused drove a crane bearing registration number KL-35J-4857 in a rash and negligent manner along the Pala–Thodupuzha public road, proceeding from Pala towards Thodupuzha. While doing so, the accused knocked down a person named Padmanabhan, who is the father of PW1. As a result of the injuries sustained in the accident, Padmanabhan succumbed to his injuries on 17.06.2020 at the

Medical College Hospital, Kottayam. The accused has thereby committed the aforesaid offences.

3. On receipt of summons, accused appeared before the Court. Copies of all relevant records furnished to him. Particulars of offences under sections 279 & 304 A of IPC were read over and explained to the accused to which he pleaded not guilty and claimed to be tried. The case was posted for prosecution evidence. From the side of the prosecution, CW1, CW2, CW3, CW4, CW5, CW11, CW12, CW9 & CW14 were examined as PW1 to PW9 and Exhibits P1 to P12 were marked.
4. 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 his innocence. Eventhough sufficient opportunities had given, no evidence adduced from the side of defence.
5. Heard both sides.
6. **The following points arise for determination:-**

1.	Whether on 011.06.2020 at about 10:30 a.m., at Kollapally, the accused drove a crane bearing registration number KL-
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	35J-4857 in a rash and negligent manner along the Pala–Thodupuzha public road endangering human life, as alleged?
2.	Whether the aforesaid act of the accused caused the death of the deceased Padmanabhan, as alleged?
3.	In the event of conviction, what is the sentence to be awarded upon the convicted accused?

7. **Point No.1 & 2** :- For the sake of convenience, both these points are taken up together for determination.
8. The case of the prosecution is that the accused drove a crane in a rash and negligent manner, which resulted in the death of a person named Padmanabhan. The learned Assistant Public Prosecutor (APP) contended that the evidence adduced on the side of the prosecution is sufficient to establish the guilt of the accused. On the other hand, the learned counsel for the accused vehemently argued that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. PW1, the first informant and the son of the deceased, deposed that the incident occurred in June 2020 at Kollapally at about noon. He stated that he came to know about the incident through a phone call and thereafter gave Ext. P1 First Information Statement

before the police. He came to know that his father was knocked down by a crane. He identified the accused in court. PW2, who was cited as an eyewitness, deposed that the incident occurred on 11.06.2020 at about 10:30 a.m. in front of a waiting shed at Kollapally. According to him, while he was waiting for a bus, a crane came from the Pala side, and at that time his brother, the deceased was crossing the road. The crane hit him, causing him to fall down. The injured was first taken to Pravithanam Hospital and thereafter to the Medical College Hospital for treatment, where he succumbed to his injuries after seven days. However, despite giving such evidence, PW2 failed to identify the accused in court. PW3, who was also cited as an eyewitness, turned hostile and deposed that he had not witnessed the incident.

9. PW4 would say that on 13-06-2020 at 11 a.m., near the waiting shed at Kollappally town, a crane coming from Pala hit a man named Padmanabhan, who was standing on the western side of the road. The driver had turned his head and, due to the length of the vehicle, could not see properly ahead, and that the vehicle was driven with some negligence and speed. He added that Padmanabhan, who was the father of his friend, was immediately taken to

the hospital. He had signed Ext. P2 scene mahazar prepared by the police . According to PW4, the accident occurred due to the negligence of the driver and speed. He identified the accused in Court. During cross-examination, he stated that the the road was about 10 meters wide, there was no proper footpath but only a waiting shed in that area, and though the town was usually busy, there were no other vehicles at the time of the incident. PW5 identified his signature in Exhibit P3 Inquest Report. PW6 stated that on 11.06.2020, while working as Casualty Medical Officer at MKM Hospital, Pravithanam, he examined Padmanabhan, aged 84 years, who had an alleged history of being hit by a crane at Kollappally at 10:45 a.m. on the same day. He noted swelling on the forehead and abrasion with swelling on the left thigh, referred the patient to a higher centre for further treatment. He identified the wound certificate issued by him, which was marked as Ext. P4.

10. PW7 gave evidence that on 17.06.2020, while he was working as Assistant Police Surgeon at Medical College Hospital, Kottayam, he conducted the post mortem examination of deceased Padmanathan and issued Exhibit P5 post mortem certificate. The death was due to a head injury. PW8 identified his signature in Exhibit P6 seizure mahaser. PW9 would say that on

13.06.2020, he was working as the Sub Inspector of Meenachil Police Station and had taken over the investigation of the case. He visited the scene of occurrence and prepared Ext.P2 scene mahazar. He recorded statements of witnesses and, as the injured person later died, conducted the inquest and sent the body for postmortem examination. The initial offences under Sections 337 and 338 IPC were later altered and Section 304A IPC was added, and he submitted Ext. P7 for the same. He arrested the accused on 19.06.2020 and released him on bail. He also submitted reports showing the address of the accused, marked as Exts. P8 and P9.

11.The vehicle involved, a crane bearing registration number KL-35-J-4857, was seized as per Ext.P6 mahaser. He produced the inspection report, marked as Ext. P10, and issued Ext.P11 notice to the registered owner of the vehicle and obtained Ext.P11(a) reply. The vehicle was later released to the RC owner on execution of Ext. P12 bond. He also collected and produced the wound certificate and postmortem certificate, marked as Exts. P4 and P5 respectively. The accident occurred due to the rash and negligent driving of the accused. He identified the place of occurrence as Kollappally town on the Pala–Thodupuzha road. After completing the investigation, he filed the

final report before the court. In cross-examination, he stated that the RC owner of the vehicle was not cited as a witness.

12. The prosecution alleges that the accused drove a crane in a rash and negligent manner and thereby caused the death of Padmanabhan. In order to establish the offences under Sections 279 and 304A IPC, the prosecution must prove not only that the accident occurred and that the death resulted therefrom, but also that the accident was the direct consequence of the rash and negligent act of the accused. It is well settled that mere occurrence of an accident or the fact that a person died as a result of such accident is not by itself sufficient to fasten criminal liability unless the element of rashness or negligence is clearly established. In this case, PW1, who is the son of the deceased and the informant, admittedly is not an eyewitness to the occurrence. His evidence reveals that he came to know about the incident through a phone call and thereafter gave the First Information Statement. Therefore, his testimony does not throw any light on the manner in which the accident occurred or as to whether the accused was driving the vehicle in a rash and negligent manner. His evidence is only relevant to the extent of proving the registration of the crime. PW2 was examined as an eyewitness to

the occurrence. Though he deposed that a crane coming from the Pala side hit the deceased while he was crossing the road, it is significant to note that he failed to identify the accused in court as the driver of the vehicle. Identification of the accused is a crucial aspect in a criminal trial. When an eyewitness fails to identify the accused, his evidence becomes insufficient to connect the accused with the commission of the offence. Thus, the testimony of PW2, though relevant to prove the occurrence of the accident, does not help the prosecution in establishing that it was the accused who was driving the vehicle. PW3, who was also cited as an eyewitness, did not support the prosecution and turned hostile. His evidence does not advance the prosecution case in any manner.

13. The prosecution mainly relies on the testimony of PW4 to establish rashness and negligence on the part of the accused. PW4 deposed that the crane hit the deceased and that the driver had turned his head and could not see properly ahead due to the length of the vehicle, and that the vehicle was driven with some speed and negligence. He also identified the accused in court. However, a significant inconsistency is seen in his version regarding the date of occurrence, as he stated that the incident took place on

13.06.2020, whereas the prosecution case is that it occurred on 11.06.2020. Such discrepancy creates doubt regarding the reliability of his testimony. Further, PW4 admitted in cross-examination that the road at the place of occurrence was about 10 meters wide and that there were no other vehicles present at the time of the incident. The existence of a wide road with no traffic reduces the probability of rash or negligent driving, unless there is convincing evidence to the contrary. His statement that the vehicle was moving with “some speed” is vague and does not by itself establish rashness or negligence. It is trite law that speed alone is not a decisive factor to conclude negligence unless it is shown that the speed was excessive or dangerous in the given circumstances. Further he could not say about the registration number or details of the vehicle. The learned counsel appearing for the accused questioned the reliability of the identification of the accused made by PW4 before the court. The learned counsel urged that as no identification parade was conducted during the investigation stage, the identification made by PW4 before the Court cannot be acted upon. It is an admitted fact that no test identification parade was conducted in this case as part of the investigation.

14. In **State of Maharashtra v. Sukhdev Singh, 1992 (3) SCC 700**, it was laid down by honourable Apex Court that if a witness had any particular reason to remember the identity of an accused, in that event, the case can be brought under the exception and upon solitary evidence of identification of an accused in court for the first time, conviction can be based. In **Ronny @ Ronald James Alwaries and Ors. v. State of Maharashtra, 1998 (3) SCC 625** it has been laid down by honourable Supreme Court that where the witness had a chance to interact with the accused or that in a case where the witness had an opportunity to notice the distinctive features of the accused which lends assurance to his testimony in court, the evidence of identification in court for the first time by such a witness cannot be thrown away merely because no test identification parade was held. Here in the case at hand, prosecution has no such case that PW4 had prior acquaintance with the accused and the witness and he had an opportunity to notice the distinctive features of the accused which lends assurance to his testimony in court,

15. The evidence of PW6 and PW7, the doctors, establishes that the deceased sustained injuries in a road traffic accident and that the death was due to

head injury. This medical evidence corroborates the factum of the accident and the cause of death. However, it does not in any manner prove that the accident occurred due to the rash and negligent driving of the accused.

16. The remaining witnesses, namely PW5, PW8, and PW9, are official witnesses connected with the inquest, seizure, and investigation. Their evidence does not provide any direct proof regarding the manner in which the vehicle was driven. It is also pertinent to note that the registered owner of the vehicle was not examined, and no independent evidence has been adduced to conclusively establish that the accused was driving the vehicle at the relevant time. On an appreciation of the entire evidence, it is evident that the prosecution has failed to establish beyond reasonable doubt that the accused was driving the vehicle in a rash and negligent manner. The evidence on record only proves that an accident occurred and that the deceased succumbed to the injuries sustained therein. However, the essential ingredient of rashness or negligence attributable to the accused remains unproved. The absence of reliable corroborative evidence create reasonable doubt in the prosecution case.

17. Point No.3

In the result of the above said findings, accused is found not guilty of the offences punishable under sections 279 & 304 A of IPC. Hence he is acquitted under section 255(1) of Cr.P.C. His bail bond stands cancelled and he is set at liberty.

Dictated to the Confidential Assistant transcribed and typed by her, corrected by me and pronounced in the open Court on this day, the 24th day of April, 2026.

**Judicial Magistrate of the First Class,
Erattupetta**

<u>APPENDIX</u>	
<u>Witnesses examined for the prosecution</u>	
PW1	Somachandran
PW2	Sukumaran
PW3	Manoj
PW4	Babu KT
PW5	Samush
PW6	Dr. Bibin
PW7	Dr. Jiju
PW8	Siby Joseph
PW9	Lebimon K S

<u>Exhibits marked for the prosecution</u>	
P1	FIS dtd. 13/06/20 proved by PW1
P2	Scene mahazar dtd. 13/06/20 proved by PW4
P3	Inquest report dtd. 17/06/20 proved by PW5
P4	Wound certificate dtd. 11/06/20 proved by PW4
P5	Post-mortem certificate dtd. 17/06/20 proved by PW7
P6	Seizure mahazar dtd. 19/06/20 proved by PW8
P7	Report dtd. 17/06/20 proved by PW9
P8	Bail bond dtd. 19/06/20 proved by PW9
P9	Address report dtd. 19/06/20 proved by PW9
P10	AMVI Report dtd. 23/06/20 proved by PW9
P11	Notice dtd. 19/06/20 proved by PW9
P11(a)	Reply dtd. 13/06/20 proved by PW9
P12	Kacheet dtd. 23/06/20 proved by PW9
<u>Witnesses examined for the defence:- Nil</u>	
<u>Exhibits marked for the defence: Nil</u>	
<u>Material objects marked</u> : Nil	

**Judicial Magistrate of the First Class,
Erattupetta**