

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

Present:- Smt. Neema Noor Mohamed, Judicial Magistrate of First Class.

Friday, this the 5th day of June, 2026/ 15th day of Jyeshtha, 1948 S.E.

Calendar Case No. 406/2018.

State represented by the Sub Inspector of Police, Pattambi Police Station in crime No. 480/2018. (By Smt. Resmi.V.S Grade II A.P.P.)		Complainant
Muhammed Asharaf, aged 48/18 years, S/o. Muhammed, Poolakkal House, Kulukallur P.O, Mulayankavu, Pattambi Taluk, Palakkad. (By Adv. Sri. T. Udayasankar)		Accused
Offence	Punishable under sections 279, 337 and 304A of the Indian Penal Code.	
Plea	Not guilty	
Finding	Not guilty	
Sentence or order	The accused is found not guilty for the offences punishable under sections 279, 337 and 304A of the Indian Penal Code and is acquitted of these offences under section 255(1) Cr.P.C. The bail bond executed by the accused stands cancelled and he is set at liberty forthwith.	

DATE OF

Offence	Complaint	Apprehension	Release on Bail	Comment -cement of Trial	Close of Trial	Order	Explanation for delay
11/05/18	11/05/18	06/10/18	06/10/18	14/10/19	03/03/26	05/06/26	No delay

DESCRIPTION OF ACCUSED

Name	Father's Name	Age	Residence	Taluk
Muhammed Asharaf	Muhammed	48/18	Kulukallur	Pattambi

J U D G M E N T

This is a case instituted upon the final report submitted by the Sub Inspector of Police, Pattambi Police station in crime No. 480/2018 alleging the commission of offence punishable under Sections 279, 337 and 304A of the Indian Penal Code.

2. The summary of the prosecution case is as follows: The prosecution case is that on 11/05/2018 at about 10.45 a.m., the accused, while driving vehicle bearing registration No. KL 9 S 3400 along the Mulayankavu–Koppam public road towards Koppam, drove the vehicle in a rash and negligent manner so as to endanger human life and personal safety. It is alleged that, while so driving, the accused caused the vehicle to collide with motorcycle bearing registration No. KL 52 M 1260. As a result of the collision, the rider of the motorcycle sustained grievous injuries, which ultimately proved fatal and resulted in her death. Hence accused is alleged to have committed the aforesaid offences.

3. On receipt of First Information Statement from CW1, CW15 registered the crime and after completing investigation, PW2 filed the final report before the court.

4. The accused appeared before the court and he was released on bail. Accused was represented by a counsel of his choice. Copies of all relevant prosecution records were furnished to him under section 207 of Cr.P.C. Particulars of offense were read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

5. In order to prove the prosecution case, the Investigating Officer cited 16 witnesses. From the side of prosecution PW1 and PW2 were examined and Exts. P1 to P10 were marked. On closure of prosecution evidence, the accused was examined

under section 313(1)(b) of Cr.P.C. as to the incriminating evidence brought out against him in prosecution evidence. He denied all that evidence and repeated the plea of innocence.

6. Accused was then called upon to enter upon his defence and produce his evidence. He did not adduce any oral or documentary evidence.

7. After hearing both sides the following points arise for consideration;

1. *Whether the accused drove a car bearing KL 9 S 3400, through Mulayamkavu- Koppam Public Road in a rash and negligent manner as alleged by the prosecution to commit the offence punishable under section 279 IPC?*
2. *Whether the accused caused severe hurt to CW1 as a result of his rash and negligent driving of the car as alleged by the prosecution to commit the offence punishable under section 337 IPC?*
3. *Whether the accused caused the death of Ranjini as a result of his rash and negligent driving of the car to commit the offence punishable under section 304A IPC ?*
4. *Whether the accused committed the offences with which he is charged?*
5. *If the accused is found guilty, what should be the proper sentence?*

8. **Point Nos. 1 to 4:** For the sake of convenience these points are considered together. PW1 was examined as an inquest witness. He deposed that the inquest over the body of deceased Ranjini was conducted in his presence and that he had attested the inquest report. He identified his signature in the inquest report, which was marked as Ext.P1. Apart from proving the conduct of the inquest and his attestation therein,

PW1 did not depose regarding the occurrence of the accident, the manner in which it occurred, or the role allegedly played by the accused.

9. PW2, the Investigating Officer, deposed that on 11/05/2018 he took over the investigation of the case. According to him, the First Information Statement had been recorded by CW14. PW2 stated that he was acquainted with the signature of CW14 and identified the First Information Statement bearing the signature of CW14, which was marked as Ext.P2 subject to proof. PW2 further deposed that, on the basis of the First Information Statement, CW15 registered the crime. He stated that he was acquainted with the signature of CW15 and identified the First Information Report bearing the signature of CW15, which was marked as Ext.P3 subject to proof. PW2 further stated that he conducted the inquest over the body of the deceased and identified Ext.P1 inquest report bearing his signature. He deposed that, as pointed out by CW1, he inspected the scene of occurrence situated on the public road and prepared the scene mahazar. The scene mahazar prepared by him was identified and marked as Ext.P4. PW2 further testified that he arrested the accused and prepared the arrest memo, which was marked as Ext.P5. The bail bond executed upon release of the accused on bail was marked as Ext.P6, and the address report prepared by him was marked as Ext.P7. According to PW2, he caused the vehicles involved in the accident to be inspected by the Motor Vehicle Inspector and collected the inspection reports relating to the vehicles, which were marked as Exts.P8 and P9. He also collected the postmortem report of the deceased, which was marked as Ext.P10. After completing the investigation, he submitted the final report before the Court. PW2 also stated that he was capable of identifying the accused, though the identity of the

accused was not in dispute. During cross-examination, PW2 admitted that he had not collected the particulars of the registered owner of vehicle No. KL 9 S 3400 and had not examined the registered owner as a witness during investigation. He further admitted that he had no direct knowledge regarding the correctness of the contents of Exts.P2 and P3.

10. The fact that the rider of the motorcycle sustained fatal injuries in the accident and subsequently died is not in dispute. The death of the deceased stands substantiated by the materials on record, including Ext.P10 postmortem report. The question that arises for consideration is whether the prosecution has succeeded in proving beyond reasonable doubt that the accident occurred on account of the rash and negligent driving of the accused and that the accused is criminally liable for the offences alleged.

11. To establish the charge, the prosecution examined only PW1 and PW2 and marked Exts.P1 to P10. PW1 is an inquest witness. His evidence is confined to proving that the inquest over the body of the deceased was conducted in his presence and that he attested Ext.P1 inquest report. His testimony does not throw any light on the occurrence of the accident or the manner in which it took place. PW2 is the Investigating Officer. His evidence relates to the investigation conducted by him, including the preparation of the scene mahazar, arrest of the accused, collection of the Motor Vehicle Inspector's reports and postmortem report, and submission of the final report. PW2 admittedly is not an eyewitness to the occurrence. Therefore, his evidence cannot establish the manner in which the accident occurred or the alleged rashness and negligence on the part of the accused.

12. It is pertinent to note that the prosecution has failed to examine the material witnesses to the occurrence. CW1, the first informant and the star witness for the prosecution, was not examined. Though repeated process was issued to CW1 and the other prosecution witnesses, they did not appear before the Court. Coercive steps were also taken against CW1 and CW7. Despite the same, they failed to turn up before the Court. Consequently, the examination of CW1 and the remaining witnesses had to be dispensed with.

13. The non-examination of CW1 and the other occurrence witnesses assumes great significance. CW1 was the first informant and the witness through whom the prosecution intended to prove the occurrence and the circumstances under which the accident took place. In the absence of the testimony of CW1 or any other eyewitness, there is no direct evidence before the Court regarding the manner of driving of the accused, the point of impact, or the circumstances leading to the collision.

14. The documentary evidence produced by the prosecution, namely Ext.P1 inquest report, Ext. P4 scene mahazar, Exts. P8 and P9 Motor Vehicle Inspector's reports and Ext.P10 postmortem report, established the occurrence of the accident and the resultant death of the victim. However, those documents by themselves do not establish that the accident was the consequence of any rash or negligent act on the part of the accused. Criminal negligence or rashness cannot be presumed merely because an accident has occurred or because death has resulted therefrom. PW2 also admitted during cross-examination that he had not collected the details of the registered owner of vehicle No. KL 9 S 3400 and had not examined the registered owner as a witness. He further admitted that he had no direct knowledge regarding

the correctness of the contents of Exts.P2 and P3. These aspects further weaken the prosecution case.

15. In a prosecution alleging rash and negligent driving resulting in death, the prosecution is bound to prove the specific act of negligence or rashness attributable to the accused. The Court cannot base a conviction on surmises or conjectures. In the present case, apart from proof of the accident and the consequent death, there is no substantive evidence to establish that the accused drove the vehicle in a rash or negligent manner or that the accident occurred due to any culpable negligence on his part.

16. On a careful evaluation of the entire evidence on record, this Court finds that the prosecution has failed to establish the essential ingredients of the offences alleged beyond reasonable doubt. The evidence adduced is insufficient to hold that the accused was responsible for the accident by reason of any rash or negligent act. The prosecution has failed to prove beyond reasonable doubt that the accused committed the offences alleged in the final report. Consequently, the accused is found not guilty and is acquitted under Section 248(1) Cr.P.C. of all the charges levelled against him. Thus the points are answered against the prosecution.

17. **Point No. 5**:-In view of the findings in on foregoing points, this point did not require adjudication.

In the result

1. ***The accused is found not guilty for the offences punishable under sections 279, 337 and 304A of the Indian Penal Code and is acquitted of these offences under section 255(1) Cr.P.C.***

2. *The bail bond executed by the accused stands cancelled and he is set at liberty forthwith.*

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, this the 5th day of June, 2026.

Sd/-
Judicial Magistrate of First Class,
Pattambi.

APPENDIX

Witnesses examined for the Prosecution:-

PW1:	Ramachandran, aged 41 years, S/o. Madhavan, Koppam, Pattambi.	Inquest report witness CW2
PW2:	SI M.V. Vijayan, aged 62 years, S/o. Vipanchika, Vattamkulam, Ponnani.	Police witness CW16

Witnesses examined for the Defence:- NIL

Exhibits marked for Prosecution:-

- P1 : 04/12/2016 Inquest report (PW1)
P2: 05/12/2016 FIS (PW2)
P3: 26/06/2017 FIR (PW2)
P4: 04/12/2016 Scene mahazar (PW2)
P5: 18/05/2018 Arrest memo (PW2)
P6: 18/05/2018 Bail Bond (PW2)
P7: 18/05/2018 Report to add address of accused (PW2)
P8: 17/09/2018 AMVI inspection report of car bearing No. KL 9 S 3400 (PW2)
P9: 17/09/2018 AMVI Inspection report of vehicle KL 52 M 1260 (PW2)
P10: 11/05/2018 Postmortem certificate (PW2)

Exhibits marked for Defence:- NIL

Sd/-
Judicial Magistrate of First Class
Pattambi.

// True Copy//

Judicial Magistrate of First Class,
Pattambi.