

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

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

Tuesday, this the 17th day of March, 2026/ 26th day of Phalguna, 1947 S.E.

Summary Trial No. 1317/2018.

State represented by the Sub Inspector of Police, Thrithala Police Station in crime No. 469/2018. (By Smt. Resmi.V.S Grade II A.P.P.)		Complainant
Lohithakshan, aged 47/18 years, S/o. Chappan, Kollara Valappil House, Mezhathur P.O, Thrithala, Pattambi Taluk, Palakkad. (By Adv. Smt. A.P. Siji)		Accused
Offence	Punishable under sections 279 and 338 of the Indian Penal Code and section 3(1) r/w 181 of the Motor Vehicles Act.	
Plea	Not guilty	
Finding	Not guilty	
Sentence or order	The accused is found not guilty for the offences punishable under sections 279 and 338 of the Indian Penal Code and section 3(1) r/w 181 of the Motor Vehicles Act 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 of Trial	Close of Trial	Order	Explanation for delay
28/07/18	08/09/18	10/02/20	10/02/20	21/08/24	12/03/26	17/03/26	No delay

DESCRIPTION OF ACCUSED

Name	Father's Name	Age	Residence	Taluk
Lohithakshan	Chappan	47/18	Mezhathur	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, Tthritthala Police station in crime No. 469/2018 alleging the commission of offence punishable under Sections 279 and 338 of the Indian Penal Code and section 3(1) r/w 181 of the Motor Vehicles Act.

2. The summary of the prosecution case is as follows: On 27/07/2018 at about 10:00 a.m., the accused, while riding motor cycle bearing registration No. KL 52 J 8339 along the Guruvayoor–Pattambi public road, in a rash and negligent manner so as to endanger human life, hit CW1, who was standing on the side of the road, and thereby caused grievous injuries to him. Thereby the accused has committed the alleged offence.

3. On receipt of First Information Statement from CW1, PW5 registered the crime and after completing investigation, he 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 8 witnesses. From the side of prosecution PW1 to PW6 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. through his counsel 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 rode a motorcycle bearing KL 52 J 8339, through Pattambi – Guruvayoor Public Road in a rash and negligent manner to commit the offence punishable under section 279 IPC?*
2. *Whether the accused caused grievous hurt to CW1 to commit the offence punishable under section 338 IPC ?*
3. *Whether the accused rode a motorcycle without having driving license o commit the offence punishable under section 3(1) r/w 181 of the Motor Vehicle Act ?*
4. *Whether the accused committed any of 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. Evidence in this case consists of oral testimony of PW1 to PW6 and Exts. P1 to P10.

9. PW1: He deposed that CW1 was his father and PW6 his brother. He stated that the accident occurred in front of their family bakery at Mattaya Kakkarattupadi. However, he categorically admitted that he was not present at the time of the incident and that only CW1 and PW6 were present. He further deposed that he was present

when the police came for investigation and that he is a witness to Ext.P1 scene mahazar. He identified the signature of CW1 in Ext. P2 First Information Statement. In cross-examination, he deposed that the place of occurrence was shown to the police by an employee of his bakery.

10. PW2: The medical witness, deposed that he treated CW1 at Amala Hospital, Thrissur while he was working as Associate Professor at Orthopedic department. He stated that CW1 was admitted with a history of road traffic accident and had sustained fracture of the upper part of the leg, for which surgery was conducted on 01/08/2018. He proved Ext. P3 discharge certificate which was issued by him. In cross-examination, he admitted that Ext. P3 does not mention the date of the accident.

11. PW3: The Assistant Motor Vehicle Inspector, deposed that he inspected the vehicle bearing No. KL 52 J 8339 and found that there were no mechanical defects. The brakes and steering system were in proper working condition. He proved Ext. P4 inspection report. He also stated that the vehicle was specially designed for a disabled person.

12. PW4: The police official, deposed that he recorded Ext. P2 First Information Statement given by CW1. In cross-examination, he admitted that Ext. P2 does not mention from which direction the vehicle came, the position of CW1, or who caused the accident.

13. PW5: The Investigating Officer, deposed that he registered the FIR based on Ext. P2 and conducted investigation. He prepared Ext. P1 scene mahazar and collected Ext. P3 wound certificate. He also stated that the vehicle involved was a

specially designed vehicle for a disabled person. He identified the accused in court. In cross-examination, he admitted that the arrest memo does not show whether the accused is disabled.

14. PW6: He deposed that CW1 was his father. He stated that on the date of occurrence, he was standing in front of his bakery and that CW1 was waiting to cross the road. According to him, the accused, riding a specially designed vehicle for a disabled person, came from the Guruvayoor side and hit CW1, causing him to fall unconscious. He stated that the accident occurred due to the rashness and high speed of the accused. He identified the accused in court. In cross-examination, he admitted that he had not stated before the police that the accused was a handicapped person and that CW1 was standing on the same side of the road.

15. The offence alleged against the accused is under section 279 and 338 of the Indian Penal Code and section 3(1) r/w 181 of the Motor Vehicles Act.

Section 279 IPC reads thus:

Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 338 IPC reads thus:

Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Section 3(1) of MV Act reads thus:

No person shall drive a motor vehicle in any public place unless he holds an effective driving license issued to him authorising him to drive the vehicle; and no person shall so drive a transport vehicle other than a motor cab or motor cycle hired for his own use or rented under any scheme made under subsection (2) of section 75 unless his driving license specifically entitles him so to do.

16. At the outset, it is to be noted that CW1, the injured who is the de facto complainant, could not be examined before this Court, as he expired during the course of trial. This fact has come out in evidence and, therefore, the non-examination of CW1 cannot be taken adversely against the prosecution. Nevertheless, the consequence remains that this Court is deprived of the best and most direct evidence regarding the manner of occurrence, and hence, the remaining evidence on record requires a more careful, cautious, and critical scrutiny.

17. In that view of the matter, it is seen that PW1 is admittedly not an eyewitness to the occurrence, and his evidence is only hearsay in nature. Likewise, though PW2, the medical witness, has proved that CW1 had sustained grievous injury, his evidence does not in any manner connect the said injury with the alleged incident. Further, PW3, the Motor Vehicle Inspector, has ruled out any mechanical defect in the vehicle; however, that circumstance by itself does not lead to the inference of rashness or negligence on the part of the accused. Added to this, PW4 has clearly admitted that Ext.P2 First Information Statement is silent with respect to

the material particulars of the occurrence, including the manner in which the accident took place. Similarly, PW5, the Investigating Officer, has not succeeded in collecting any convincing material so as to establish the manner of the accident or the role of the accused therein. In such circumstances, the prosecution case rests primarily and substantially upon the testimony of PW6.

18. PW6 claims to be an eyewitness and has attributed rashness and high speed to the accused. However, it is to be borne in mind that PW6 is none other than the son of CW1 and is, therefore, an interested witness. Though the evidence of an interested witness is not liable to be rejected on that ground alone, it is well settled that such evidence requires cautious evaluation and must inspire confidence.

19. On such scrutiny, it is found that the statement of PW6 regarding “high speed” is only a bald and general assertion without any supporting material particulars. He has not deposed anything regarding the exact manner in which the vehicle was driven so as to constitute either rashness or negligence. Moreover, his omission to state before the police that the accused was a handicapped person assumes significance, especially when the prosecution evidence itself discloses that the vehicle involved was a specially designed vehicle for a disabled person. This omission, being material in nature, affects the credibility of his version.

20. In this context, it becomes necessary to advert to the legal concepts of criminal rashness and criminal negligence. Criminal rashness implies doing an act with the consciousness that a harmful or illegal consequence may follow, but with the hope that such consequence will not ensue. Criminal negligence, on the other hand, denotes a gross and culpable failure to exercise that degree of care and caution which

a prudent and reasonable person would have exercised under similar circumstances. For fastening criminal liability under Sections 279 and 338 of the Indian Penal Code, such rashness or negligence must be of a gross degree, and not merely a case of error of judgment or inadvertence.

21. It is equally well settled that mere occurrence of an accident, or the fact that an injury has been sustained, is not sufficient to fasten criminal liability. The prosecution must further establish that the act of the accused was of such a nature as to be imminently dangerous and indicative of a reckless disregard for human life and safety. When the evidence on record is tested on the above principles, it becomes evident that there is no clear or cogent evidence regarding the manner of driving. There is no material to indicate the speed of the vehicle in any objective or measurable terms; nor is there any evidence regarding the conduct of the accused immediately prior to the accident. In the absence of such evidence, the mere use of the expression “high speed” by PW6 cannot, by itself, establish criminal rashness.

22. On the contrary, the evidence on record shows that the accused was riding a specially designed vehicle meant for a disabled person, which, in the ordinary course, probalizes a more cautious and controlled manner of driving rather than a rash or reckless one.

23. Further, as per the own version of PW6, CW1 was waiting to cross the road. However, there is absolutely no evidence to show as to whether CW1 attempted to cross the road suddenly or without taking due care. In such a situation, the possibility of contributory negligence on the part of CW1 cannot be safely ruled out.

24. Added to this, Ext.P2 First Information Statement, which is the earliest version of the prosecution case, is conspicuously silent regarding the material particulars of the occurrence. Such omission assumes importance and creates a reasonable doubt regarding the correctness of the subsequent version placed before this Court. Moreover, no independent witness has been examined, though the occurrence is alleged to have taken place on a public road during daytime, which further weakens the prosecution case.

25. On an overall appreciation of the entire evidence, this Court is of the considered view that the prosecution has failed to establish, beyond reasonable doubt, that the accused drove the vehicle in a rash and negligent manner so as to attract the offences alleged. Thus the points are answered against the prosecution.

26. **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 and 338 of the Indian Penal Code and section 3(1) r/w 181 of the Motor Vehicles Act 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 17th day of March, 2026.

Sd/-
Judicial Magistrate of First Class,
Pattambi.

APPENDIX**Witnesses examined for the Prosecution:-**

PW1:	Shaji, aged 46 years, S/o. Bhaskaran, Thirumittacode-1, Pattambi.	Scene mahazar witness CW3
PW2:	Dr. Sudheer.U, aged 47 years, S/o. K. Govindhankutty, Pulacode, Thalapilly.	Medical witness CW6
PW3:	Sameer.V.K, aged 49 years, S/o. Alavi.V.K, Aliparamba, Perinthalmanna. (AMVI)	Official witness CW5
PW4:	CPO Sudheesh.C.P, aged 45 years, S/o. Divakaran, Nagalassery, Pattambi.	Police witness CW7
PW5:	SI Manikandan.K, aged 40 years, S/o. Chami, Thottakkara, Ottapalam.	Police witness CW8
PW6:	Rajeesh, aged 45 years, S/o. Bhaskaran, Thirumittacode, Pattambi.	Eye witness CW2

Witnesses examined for the Defence:- NIL**Exhibits marked for Prosecution:-**

- P1 :09/09/2018 Scene mahazar (PW1)
P2: 08/09/2018 FIS (PW1)
P3: 05/08/2018 Discharge certificate (PW2)
P4: 05/10/2018 AMVI certificate (PW3)
P5: 08/09/2018 FIR (PW5)
P6: Report to add section (PW5)
P7: 18/09/2018 Arrest memo (PW5)
P8: 18/09/2018 Bail Bond (PW5)
P9: Report to add name and address of accused (PW5)
P10: Kychit (PW5)

Exhibits marked for Defence:- NIL

Sd/-
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Pattambi.

//True Copy//

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Pattambi.