

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS, THIRUVALLA****Present: Smt. Arundhathi Dileep, Judicial Magistrate of the First Class****Thursday the 26<sup>th</sup> day of March, 2026/ 05<sup>th</sup> day of Chaithra 1948 S.E.****CC 1771/2017.**

Complainant : State represented by the Sub Inspector of Police, Mallappally as per Crime No. 762/2016 of Keezhvaipur Police Station.  
[By Smt. Devi M G, Assistant Public Prosecutor, Grade – I, Thiruvalla]

Accused : Midhun Mathew, Aged 23/17  
S/o Mathew Varghese  
Elavummoottil House, Chengaroor  
Nellimmodu, Mallappally Village.  
(By Adv. Abhilash Gopan)

Offences : Under sections 279 and 304A of the Indian Penal Code and Sections 184, 134(a) and (b) of the MV Act.

Plea : Not Guilty.

Finding : Not Guilty.

Sentence/Order : Accused is acquitted under section 278(1) of the BNSS.

**DESCRIPTION OF THE ACCUSED**

<b>Name</b>	<b>Father's name</b>	<b>Occupation</b>	<b>Residence</b>	<b>Age</b>
Midhun Mathew	Mathew Varghese	Not Applicable	Mallappally	23/17

**RELEVANT DATES**

Offence	Complaint	Apprehension	Release on bail	Commencement of Trial
26/05/2016	22/05/2018	30/08/2024	30/08/2024	30/08/2024
Close of trial		Sentence of order	Explanation for delay	
24/03/2026		26/03/2026	No delay	

This case having been finally heard on 24/03/2026, the court on this day delivered the following:-

**J U D G M E N T**

- 1. The accused faces indictment for the offences punishable under sections 279 and 304A of the Indian Penal Code (hereinafter as IPC) and Sections 184, 134(a) and (b) of the MV Act as per Crime No. 762/2016 of Keezhvaipur Police Station.***
- 2. The prosecution case in brief is as follows :-*** On 26/05/2016 at 15.40 hours, the accused was driving a Maruti Car, bearing Reg No. KL-03-D-1189 in a rash and negligent manner through Nedungadappally – Mallappally Public Road from east to west and had hit against Ammini Aged 78 years, who was walking through the southern side of the said road, whereby she had sustained grievous injuries. The accused had also failed to provide for any medical attention to the said Ammini

and inform the police about the incident. Later, while undergoing treatment at the hospital, the said Ammini had succumbed to her injuries at 16.30 hours on the same day. The accused had thus committed the above said offences.

3. On the strength of Ext. P1 First Information Statement given by CW1, CW21, Sub Inspector of Police, Keezhvaipur Police Station registered the case as Crime No. 762/2016 and CW22, Sub Inspector of Police, Mallappally conducted the investigation and laid the final report before the Court. Cognizance was taken by the court under section 190(1)(b) of Code of Criminal Procedure (hereinafter as Code) and case was taken on file as CC 1771/2017.
4. On appearance of the accused before the Court, copies of all the prosecution records were furnished to him as envisaged under section 230 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. He was enlarged on bail. He was defended by lawyer of his choice. After hearing both sides and on perusal of entire prosecution records, particulars of the offences were read over and explained to the accused under *sections 279 and 304A of the Indian Penal Code and sections 184, 134(a) and (b) of the MV Act* to which he pleaded not guilty and claimed to be tried.
5. To bring home the guilt of the accused, prosecution examined *PW1 to PW5* and marked *Exts. P1 to P12*. Other witnesses were given up by the learned Assistant Public Prosecutor. After completion of the prosecution evidence, the accused was examined u/s 351(1)(b) of the BNSS so as to enable him to explain about the incriminating circumstances that had surfaced against him. He denied all the incriminating circumstances appearing in evidence against him and pleaded innocence. No evidence was led in defence.
6. *Heard both sides. Perused the records.*

7. *From the above facts and the prosecution evidence adduced, the following points arise for consideration :-*

1. *Whether the accused had drove the maruti car, bearing Reg No. KL-03-D-1189 in a rash or negligent manner through Nedungadappally – Mallappally Public Road and thereby committed the offence punishable u/s. 279 of IPC?*
2. *Whether the accused had drove the said maruti car in a manner which is dangerous to the public and thereby committed the offence punishable u/s. 184 of the MV Act?*
3. *Whether the accused had caused the death of Ammini by driving the maruti car, bearing Reg No. KL-03-D-1189 in any rash or negligent manner and thereby committed the offence punishable u/s. 304A of IPC?*
4. *Whether the accused had failed to provide medical attention to the said Ammini and inform the police regarding the incident and thereby committed the offence punishable u/s. 134(a) and (b) of the MV Act?*
5. *Is the accused liable for conviction? If so, what shall be the appropriate sentence to be imposed in the event of conviction?*

8. Point Nos.1 to 4:- These points can be considered jointly for the sake of convenience.

9. CW1 was examined as PW1. He stated that it was his mother who had died in the alleged incident. He had lodged the Ext.P1 FIS before the incident. He had not witnessed the alleged incident and has only hearsay knowledge about the same.

10. PW2 to PW4 had turned hostile by deposing that they had not witnessed the incident in this case and had not given any statement before police about the incident.

11. CW22 was examined as PW5. At the time of the incident, he was officiating as Circle Inspector of Police at Mallappally Police Station. On 7/7/16 he had took over the investigation of the case. In addition to the sections mentioned in the FIR, he submitted a report before the court stating that an investigation was being conducted for offences under Section 134(a)(b) of the MV Act and the same was marked as Ext.P2. He had prepared Ext.P3 vehicle mahazar and Ext.P4 mahazar after verifying the insurance policy of the vehicle. He had arrested the accused and released him on bail as Ext.P5 bond. He had forwarded the Maruti car involved in the incident to the court in the Ext.P6 form. He also submitted the insurance policy and RC particulars to the court via Ext.P7 Form. He had submitted the Ext.P8 certificate prepared by AMVI and Ext.P9 postmortem certificate before the court. He had prepared the Ext.P10 report specifying the name and address of the accused. He had issued the Ext.P11 notice to the registered owner of the vehicle involved in the incident and had obtained reply. He had released the vehicle to its registered owner on Ext. P12 bond. He had completed the investigation of the case and had filed charge sheet before the court.
12. The kernel of the prosecution allegation is that accused had driven a Maruti Car in a rash and negligent manner and caused the death of the mother of the PW1 and further failed to provide medical attention to her. A perusal of the evidence on record shows that PW2 to PW4, the independent witnesses cited by the prosecution had turned hostile. There is no ocular evidence to identify the accused as the driver of the vehicle at the time of the accident. PW1 has only hearsay knowledge regarding the incident.
13. It is settled proposition of law that section 304 A IPC would be attracted only when the death is caused by the rash and negligent act, and that the death must be direct

result of the rash or negligent act of the accused. A perusal of records shows that there is no cogent evidence to conclude that the accused was driving his maruthi car either negligently or rashly, at the relevant point of time, and the death of the mother of PW1 was the direct outcome of the rash and negligent act of the accused in hitting her.

14. In the light of the above facts and circumstances, I am of the considered opinion that there is absolutely nothing on record to fasten criminal liability upon the accused and therefore, the prosecution has failed to prove the charge beyond shadow of reasonable doubt. Accordingly, these points can only be answered against the prosecution.

15. Point No. 5:

On the basis of the findings on Point Nos.1 to 4, the question of sentence is out of consideration. Therefore this point is also found against the prosecution and in favour of the accused.

***In the result the accused is found not guilty of the offences punishable under sections 279 and 304A of the Indian Penal Code and sections 184, 134(a) and (b) of the MV Act and he is acquitted under section 278(1) of BNSS. His bail bond stands cancelled and he is set at liberty.***

Dictated to the Confidential Asst., typed by her, corrected and pronounced by me in open Court on this the 26<sup>th</sup> day of March, 2026.

***Sd/-***

***Judicial Magistrate of the First Class***

***Thiruvalla.***

**APPENDIX****A. Prosecution Witness**

<b>PROSECUTION WITNESS NO.</b>	<b>NAME OF WITNESS</b>	<b>DESCRIPTION</b>
<b>1</b>	<b>Rajan K K</b>	<b>Occurrence witness</b>
<b>2</b>	<b>Joseph Mathew</b>	<b>Occurrence witness</b>
<b>3</b>	<b>Suneesh</b>	<b>Occurrence witness</b>
<b>4</b>	<b>Vishnu</b>	<b>Occurrence witness</b>
<b>5</b>	<b>Saleem K</b>	<b>Police witness</b>

**B. Defence Witness**

<b>DEFENCE WITNESS NO.</b>	<b>NAME OF WITNESS</b>	<b>DESCRIPTION</b>
<b>NIL</b>		

**C. Court Witness**

<b>COURT WITNESS NO.</b>	<b>NAME OF WITNESS</b>	<b>DESCRIPTION</b>
<b>NIL</b>		

**List of Prosecution/Defence/Court Exhibits****A. Prosecution Exhibits**

<i>Exhibits Number</i>	<i>Description of the Exhibits</i>		<i>Proved by/Attested by</i>
<i>1</i>	<i>P1</i>	<i>FIS</i>	<i>PW1</i>
<i>2</i>	<i>P2</i>	<i>Report</i>	<i>PW5</i>
<i>3</i>	<i>P3</i>	<i>Vehicle Mahazar</i>	<i>PW5</i>
<i>4</i>	<i>P4</i>	<i>Mahazar [Insurance Policy]</i>	<i>PW5</i>
<i>5</i>	<i>P5</i>	<i>Bail Bond</i>	<i>PW5</i>
<i>6</i>	<i>P6</i>	<i>151 A Form</i>	<i>PW5</i>
<i>7</i>	<i>P7</i>	<i>Form 15</i>	<i>PW5</i>
<i>8</i>	<i>P8</i>	<i>Test Certificate</i>	<i>PW5</i>
<i>9</i>	<i>P9</i>	<i>Postmortem Certificate</i>	<i>PW5</i>
<i>10</i>	<i>P10</i>	<i>Address Report</i>	<i>PW5</i>
<i>11</i>	<i>P11 series</i>	<i>Notice, Reply</i>	<i>PW5</i>
<i>12</i>	<i>P12</i>	<i>Kai chit</i>	<i>PW5</i>

**B. Defence Exhibits**

<i>Exhibits Number</i>	<i>Description of the Exhibits</i>	<i>Proved by/Attested by</i>
<i>NIL</i>		

C. Court Exhibits

<i>Exhibits Number</i>	<i>Description of the Exhibits</i>	<i>Proved by/Attested by</i>
<i>NIL</i>		

D. Material Objects

<i>MATERIAL OBJECT NO.</i>	<i>Description of the Exhibits</i>	<i>Proved by/Attested by</i>
<i>NIL</i>		

*// True copy //*

*Judicial Magistrate of the First Class,  
Thiruvalla*