

**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 891/2009.**

Complainant : State represented by the Sub Inspector of Police, Perumpetty as per Crime No. 109/2008 of Perumpetty Police Station.  
[By Smt. Devi M G, Assistant Public Prosecutor, Grade – I, Thiruvalla]

Accused : Sunil Kumar, Aged 31/08  
S/o Surendran  
Sunil Sadanam House, Vayyattupuzha  
Kulangara Vali, Thekkekkara Muri,  
Kumaramperoor, Chittar Seethathodu  
Village.  
(By Adv. Kavya Krishna)

Offences : Under sections 279 and 304A of the Indian Penal Code.

Plea : Not Guilty.

Finding : Not Guilty.

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

**DESCRIPTION OF THE ACCUSED**

<i>Name</i>	<i>Father's name</i>	<i>Occupation</i>	<i>Residence</i>	<i>Age</i>
Sunil Kumar	Surendran	Driving	Chittar - Seethathodu	31/08

**RELEVANT DATES**

Offence	Complaint	Apprehension	Release on bail	Commencement of Trial
28/07/2008	23/11/2009	18/08/2025	18/08/2025	01/09/2025
Close of trial		Sentence of order	Explanation for delay	
23/03/2026		26/03/2026	No delay	

This case having been finally heard on 23/03/2026, 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) as per Crime No. 109/2008 of Perumpetty Police Station.***
2. ***The prosecution case as unraveled from the final report is as follows :-*** The accused had on 28/07/2008 at 6.30 P.M., drove an auto rickshaw, bearing Reg.No. KL-28-3163 in a rash and negligent manner through Mallappally – Ranni Public Road from west to east had hit against the father of CW1 who was walking through the said road and caused grievous injuries to his head. Later the father of CW1 had succumbed to his injuries. The accused had thus committed the above said offences.
3. On the basis of the Ext.P1 First Information Statement given by the defacto

complainant, CW11, Sub Inspector of Police, Perumpetty Police Station registered the case as Crime No. 109/2008 and carried out the investigation and the final report was laid 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 787/2009. The presence of the accused could not be obtained inspite of repeated coercive steps and therefore the case against him was transferred to the register of long pending case as LP No. 28/2014. Subsequently, accused appeared before this court and case against him was refiled from LP as CC 891/2009.

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** to which he pleaded not guilty and claimed to be tried.
5. To bring home the guilt of the accused, prosecution examined **PW1 to PW6** and marked **Exts. P1 to P11**. 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 on 28/07/2008 at 6.30 P.M., drove an auto rickshaw, bearing Reg.No. KL-28-3163 in a rash or negligent manner through Mallappally – Ranni Public Road and thereby committed the offence punishable u/s. 279 of IPC?*
2. *Whether the accused had on 28/07/2008 at 6.30 P.M., caused the death of father of the defacto complainant by driving the auto rickshaw, bearing Reg.No. KL-28-3163 in any rash or negligent manner and thereby committed the offence punishable u/s. 304A of IPC?*
3. *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 and 2:-** Both these points can be considered jointly for the sake of convenience.

9. CW1 was examined as PW1. He deposed that it was his father who had died in the alleged accident. The incident took place on 28/07/2008 at Chalappally. However, he stated that he had not witnessed the alleged incident and has only hearsay knowledge about the same. He identified his signature on the FIS, which is marked as Ext. P1.

10. PW2 to PW5 (CW3, CW4, CW5, and CW6), who were cited by the prosecution as occurrence witnesses, turned hostile. They deposed that they had not witnessed the incident.

11. CW11 was examined as PW6. He deposed that on 28/07/2008, while working as the Sub Inspector of Police at Perumpetty Police Station, he registered the case on the basis of Ext.P1 FIS. He registered the case by way of Ext.P2 FIR. He conducted the investigation of the case and prepared the Ext.P3 inquest report and the Ext.P4 postmortem certificate before the court. He prepared the Ext.P5 scene mahazar at the Chalappally-Ezhumattoor Public Road. He had arrested the accused and released him on bail as per Ext.P6 bond. He had also prepared the Ext.P7 report specifying the name and address of the accused. He had released the vehicle involved in the accident by Ext.P8 bond. He had issued the Ext.P9 notice to the registered owner of the auto rickshaw, bearing Reg. No. KL-28-3163, and had obtained Ext.P10 reply for identifying the driver of the vehicle. He had submitted the Ext.P11 certificate prepared by the Motor Vehicle Inspector. After completing the investigation, he filed the charge sheet before the court.
  
12. It is the case of the prosecution that the accused drove the auto-rickshaw bearing Reg. No. KL-28-3163 in a rash and negligent manner along the Mallappally-Ranni Public Road, causing the death of PW1's father. However, it is pertinent to note that PW2 to PW5, the primary occurrence witnesses, turned hostile and denied seeing the accident. PW1 also admitted to having only hearsay knowledge. It is a settled proposition of law that Section 304A of the IPC is attracted only when death is the direct result of a rash or negligent act. A perusal of the records reveals a total lack of evidence to conclude that the accused was driving the vehicle negligently or rashly at the relevant time and the death of father of PW1 was the direct outcome of the rash and negligent act of the accused in hitting him.

13. 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.

14. **Point No. 3:** On the basis of the findings on Point Nos.1 and 2, 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 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>Rank</b>	<b>Name</b>	<b>Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness</b>
<b>PW1</b>	<b>: Rajesh P R examined on 29/10/2025.</b>	<b>Informant</b>

<b>PW2</b> :	<b>Thankappan P K examined on 29/10/2025.</b>	<b>Occurrence witness</b>
<b>PW3</b> :	<b>Manohar examined on 11/11/2025.</b>	<b>Occurrence witness</b>
<b>PW4</b> :	<b>Jayachandran examined on 11/11/2025.</b>	<b>Occurrence witness</b>
<b>PW5</b> :	<b>Vinod K V examined on 11/11/2025.</b>	<b>Occurrence witness</b>
<b>PW6</b> :	<b>Pradeep Kumar T R examined on 18/02/2026.</b>	<b>Police witness</b>

**B. Defence Witness**

<b>Rank</b>	<b>:</b>	<b>Name</b>	<b>Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness</b>
<b>Nil</b>	<b>:</b>	<b>Nil</b>	<b>Nil</b>

**C. Court Witness**

<b>Rank</b>	<b>:</b>	<b>Name</b>	<b>Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness</b>
<b>Nil</b>	<b>:</b>	<b>Nil</b>	<b>Nil</b>

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

**A. Prosecution Exhibits**

<i>Sl.No</i>	:	<i>Exhibits Number</i>	<i>Description</i>
<i>P1</i>	:		<i>FIS through PW1 dated 28/07/2008</i>
<i>P2</i>	:		<i>FIR through PW6 dated 28/07/2008.</i>
<i>P3</i>	:		<i>Inquest Report through PW6 dated 29/07/2008.</i>
<i>P4</i>	:		<i>Postmortem Certificate through PW6.</i>
<i>P5</i>	:		<i>Scene Mahazar through PW6 dated 29/07/2008.</i>
<i>P6</i>	:		<i>Bail Bond through PW6 dated 20/08/2008.</i>
<i>P7</i>	:		<i>Report [Name and Address] through PW6 dated 29/07/2008.</i>
<i>P8</i>	:		<i>Kai chit through PW6.</i>
<i>P9</i>	:		<i>Notice through PW6.</i>
<i>P10</i>	:		<i>Reply through PW6.</i>
<i>P11</i>	:		<i>Test Certificate [MVI] through PW6 dated 07/08/2008.</i>

**B. Defence Exhibits**

<i>Sl.No</i>	:	<i>Exhibits Number</i>	<i>Description</i>
	:	<i>Nil</i>	<i>Nil</i>

**C. Court Exhibits**

<i>Sl.No</i>	:	<i>Exhibits Number</i>	<i>Description</i>
	:	<i>Nil</i>	<i>Nil</i>

**D. Material Objects**

<i>Sl.No</i>	:	<i>Exhibits Number</i>	<i>Description</i>
	:	<i>Nil</i>	<i>Nil</i>

*Sd/-*

*Judicial Magistrate of the First Class,  
Thiruvalla*

*// True copy //*

*Judicial Magistrate of the First Class,  
Thiruvalla*