

IN THE COURT OF SESSION MANJERI DIVISION

Present: Smt. Vincy.T.V

Assistant Sessions Judge, Tirur

Dated this the 26th day of November, 2025

SESSIONS CASE No.149/2019

(C.P.No.129/2017 of J F C M-I, Tirur)

Names of accused	1. Jijesh 2. Moideen Koya
Charge	U/Ss.279 and 308 of IPC.
Plea of the accused	Not guilty
Not guilty	Not guilty
Sentence or Order	Accused Nos.1 and 2 are acquitted U/s.235(1) of Cr.P.C
Cr.No. and Name of Police Station	Cr. No.847/2015 of Tirur Police Station.
Prosecution conducted by	Adv.T.P. Abdul Jabbar, Addl. Public Prosecutor, Tirur.
Accused defended by	Adv. Prajosh Kumar.M, Tirur
This case was made over to this court by the Sessions Judge, Manjeri for disposal.	
1. Serial No.	129/2017
2. Cr.No. & Name of Police Station	Cr. No.416/2016 of Valanchery Police Station.

Description of the Accused

Name	Father's name	Caste/ Race	Occupation	Residence	Age
1. Jijesh	Purushothaman	Hindu		Parakambi House, Vattathani (P.O.), Thanaloor.	36/15
2. Moideen Koya	Kunhimuhammed	Muslim		Kuttikkadan Veettil House, K. Puram, Tirur.	38/15

<u>Date of</u>		
1	Occurrence	24.05.2015
2	Complaint	24.05.2015
3	Apprehension	02.08.2018
4	Release on bail	A1 - 06.02.2024 A2 - 23.07.2024
5	Commitment	08.10.2018
6	Commencement of trial	30.06.2025
7	Close of trial	22.11.2025
8	Sentence or Order	26.11.2025
Explanation for delay		NA

J U D G M E N T

This case arose out from the final report filed against the accused by the Sub Inspector of Police, Tirur Police Station, in Crime No.847/2015, alleging offence punishable under sections 279 and 308 of IPC.

2. **The prosecution case is that:-** On 24.05.2015, at 8.30 a.m., both the accused had driven Buses bearing Reg. No.KL-08-R-9889 and KL-10-Q-9177 in a public way in a rash and negligent manner and due to some quarrel over the time schedule in conducting the services of the buses, caused collusion with the knowledge of their acts might have caused death of passengers. So, the accused are alleged to have committed the offences punishable U/Ss.279 and 308 of IPC.

3. As per the case of the prosecution, upon the First Information Statement of PW2, the then Sub Inspector of Police, Tirur Police Station registered the above case and concluded investigation and laid the charge sheet before the Judicial First Class Magistrate Court-I, Tirur.

4. On filing charge sheet, it was taken on file as CP.129/2017 by

that Court. On entering appearance of the accused persons, the learned Magistrate complied with section 207 of Cr.P.C. and committed the case to the Hon'ble Court of Sessions, Manjeri. The Hon'ble Sessions Court took cognizance of the offences and made over the case to this Court for disposal.

5. On process, the accused persons appeared before this Court with the counsel of their choice.

6. The learned Additional Public Prosecutor opened his case by describing the charges brought against the accused persons and stating by what evidence they proposed to prove the guilt of the accused persons. Thereafter, this Court considered the records of the case and the documents submitted therewith and heard the accused persons and the prosecution. On being satisfied that there was ground to presume that the accused have committed the offences punishable under sections 279 and 308 of IPC. It was read over and explained to the accused persons. They pleaded not guilty to the charge and claimed to be tried on such charge.

7. On the side of the prosecution, PW1 to PW4 were examined and Exts.P1 to P6 were marked. On concluding the evidence of the prosecution, the accused were examined under section 313 of Cr.PC. The accused persons denied all the incriminating circumstances put to them.

8. Thereafter, both sides were heard under section 232 of Cr.PC. On being satisfied that it was not a case where there was no evidence that the accused persons committed the offence, they were called upon to enter on their defence. They did not adduce any evidence on their side.

9. Heard both learned Additional Public Prosecutor and learned Counsel for the accused persons.

10. The points arise for consideration are:

1. Has the prosecution established that on 24.05.2015, at 8.30 a.m., both the accused had driven Buses bearing Reg.

No.KL-08-R-9889 and KL-10-Q-9177 in a public way in a rash and negligent manner?

2. Has the prosecution established that on 24.05.2015, at 8.30 a.m., both the accused had driven Buses bearing Reg. No.KL-08-R-9889 and KL-10-Q-9177, in a public way, in a rash and negligent manner, in furtherance of the common intention of the accused persons, caused collusion with the knowledge of their acts might have caused death of passengers attempted to commit culpable homicide not amounting to murder?
3. If so, what are the offences committed by the accused?
4. What shall be the sentence to be awarded?

11. **Points No.1 and 2:-** The case of the prosecution is that on 24.05.2015, at Thazhepalam road, the accused had driven buses bearing Reg. No.KL-08-R-9889 and KL-10-Q-9177 in a public road in a rash and negligent manner and so as to endanger human life and there is an attempt to commit culpable homicide not amounting to murder and thereby committed the offences punishable U/Ss.279 and 308 of IPC.

12. According to PW3, on 24.05.2015, while he was on patrolling duty along with CPO Luzhious and PW4, they reached at bus stand, Tirur and they could see two buses coming from the bus stand to Thazhepalam in a rash and negligent way and hereafter collided with each other so as to endanger the life of the travellers therein. PW3 stopped the vehicle bearing No.KL-08-R-9889 and KL-10-Q-9177 and arrested them after preparing Ext.P4 seizure mahazar, Exts.P5 arrest memo and Ext.P6 inspection memo. He also identified accused Nos.1 and 2 as the bus drivers who had driven the vehicle No.KL-08-R-9889 and KL-10-Q-9177 in a rash and negligent manner so as to endanger the life of the travellers therein.

13. PW4 the accompanying officer deposed that on 24.05.2018 while on law and order duty along with PW3 he could see two buses coming in rash and negligent manner. According to him, PW3 intercepted the vehicle and arrested the drivers therein and he assisted PW3 in preparing the seizure mahazar. He also identified Exts.P4, P5 and P6.

14. PW2 is the officer who registered Ext.P2 FIR and prepared Ext.P1 scene mahazar and produced the property before the Court after preparing Ext.P3 property list. PW1 is the independent witness. He witnessed the preparation of Ext.P1 scene mahazar.

15. The learned Additional Public Prosecutor contended that the oral evidence of PWs 3 and 4 is trustworthy and sufficient to prove the accused's involvement, and that their consistent testimony regarding the overt acts establishes the guilt of the accused beyond reasonable doubt. Per contra, the defence argued that the evidence of PWs 3 and 4, being official and interested witnesses, cannot be accepted without corroboration from independent evidence, and that the entire case suffers from serious infirmities in investigation.

16. The learned Counsel for the accused put forward an argument pointing out the contradictions in the testimony of PW3 that nothing has been stated by PW3 regarding the fact that which bus was running in the front. PW3 simply deposed that he could see two buses coming in a rash and negligent manner so as to endanger the life of the travellers in the bus but omitted to mention anything which leads to the attempt from their part as to committing culpable homicide not amounting to murder.

17. Another significant aspect is that according to PW3, the scene of occurrence is in front of the bus stop when the buses reached bypass road. At the same time he deposed that there is a dead end with a right turn and he deposed that the place of occurrence is not the bypass road. There are

also two bus stops on 20 meter distance each. He could not accurately depose the place of occurrence. Moreover, according to PW3, due to the collusion buses sustained damage. But nothing has been stated in Ext.P4 regarding the same. Besides that Exts.P5 and P6 arrest memo does not show the signature of the accused. It also reflects the fact that it includes the crime number even if the FIR was registered after 11.00 AM. The alleged arrest is at 8.40 AM and it is not possible to include the crime number of which the FIR was registered later. Hence it pointed out the fact that after preparing FIR the arrest is recorded. That by itself cut root the case of prosecution. It is also deposed by PW3 that there is a dispute as to the time schedule of the buses. But nothing has been produced from the part of the prosecution to substantiate the same.

18. Besides all, in **Rajesh R. v. State of Kerala**, reported in **2014 (3) KHC 648**, the Hon'ble High Court held that both in rashness and negligence, there is no mental element to commit an offence. A rash act, done with utter disregard to the consequences, cannot be said to be done with an intention or knowledge. Here, Sec.308 IPC comprises a mental and physical element, even the prosecution witness only deposed as to the element of rash and negligent driving. In **Basdev v. State of Pepsu**, reported in **AIR 1956 SC 488** it is held by the Hon'ble Supreme Court that the intention and knowledge are two different things. The knowledge in the context means the awareness of consequences. But both in rashness and negligence, there is no mental element to commit the offence. A rash act, though done with utter disregard to the consequences, cannot be said to be done with an intention or knowledge as held by the Hon'ble Supreme Court in the decision cited (**Supra**). Hence by all means there is no element to tie the accused with Section 279 and 308 IPC together. Besides that the evidence on record would show that even the place of occurrence the preparation of arrest memo and the registration of the crime is doubtful.

Hence the prosecution failed to prove the element required U/s.279 IPC also. The long and short of the above discussion is that, the evidence adduced by the prosecution does not inspire confidence for convicting the accused persons. Since the prosecution palpably failed to prove the allegation made against the accused persons, these points are found against the prosecution.

19. **Points No.3 and 4:-** As I have already found that the prosecution could not prove the case alleged against the accused persons beyond reasonable doubt, Accused are found not guilty and consequently they are entitled to be acquitted under section 235 (1) of Cr.P.C of the offences punishable under Sections 279 and 308 of IPC.

In the result,

1. The accused Nos.1 and 2 are acquitted under section 235(1) of Cr.P.C of the offences punishable under sections 279 and 308 of IPC.
2. The bail bonds of them are cancelled and they are set at liberty.
3. The above order shall take effect only after the expiry of the period prescribed for appeal and if any appeal is filed, subject to the order that Hon'ble Court.

(Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open Court, on this the 26th day of November, 2025)

Sd/-
ASSISTANT SESSIONS JUDGE

Appendix:

Prosecution Witnesses examined:

PW1 – CW4 – Shabeer Ali (30.06.2025)
PW2 – CW6 – Viswanathan.K (07.10.2025)
PW3 – CW1 – Anoop Kumar (10.11.2025)

PW4 – CW3 – Manoj (10.11.2025)

(CW2 died, Death Certificate produced)

(CW5 given up by Prosecution)

Defence Witnesses : Nil.

Prosecution Exhibits:

P1 – PW1 – Scene Mahazar (30.06.2025)

P2 – PW2 – FIR (07.10.2025)

P3 – PW2 – Property list (07.10.2025)

P4 – PW3 – Seizure Mahazar (10.11.2025)

P5 – PW3 – Arrest Memo, Inspection Memo (A1) (10.11.2025)

P6 – PW3 – Arrest memo, Inspection Memo (A2) (10.11.2025)

Material Objects: Nil

Sd/-

ASSISTANT SESSIONS JUDGE

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Judgment in SC.149/2019

Dated: 26.11.2025

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