

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE - III
NEYYATTINKARA**

**Present: Sri. Albin J. Thomas,
Judicial First Class Magistrate – III**

Dated: Friday, 10th April, 2026/ 20th Chaithra, 1948

CC No. 136/2020

Complainant : State represented by the Sub Inspector,
Naruvamoodu Police Station in Crime No.
621/2019.

Represented by Sri.Vishnu Thampi, APP.

Accused : Unni @ Sreejith, Aged 23/19, S/o Sreekumar,
Kannamkode Veedu, Swathy Nagar,
Mottamoodu, Pallichal, Pallichal Village.

Represented by Adv. T.Rajaraja Singh

Offences : U/s. 279, 337, 338 and 304(A) of IPC.

Plea : Not guilty

Finding : Not guilty

Sentence/Order : Accused is acquitted u/s.278(1) of BNSS for the
offences u/s. 279, 337, 338 and 304(A) of IPC.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name	Father's Name	Occupation	Residence	Age
1.	Unni @ Sreejith	Sreekumar	-	Pallichal	23/19

DATE OF

Occurrence	Complaint	Apprehension or appearance	Release on bail	Commencement of trial
20.09.2019	24.09.2019	31.05.2025	31.05.2025	19.07.2025
Close of trial		Sentence or Order	Explanation for delay	
01.04.2026		10.04.2026	-	

This case has been finally heard on 01.04.2026 and this court passed the following on 10.04.2026 :

J U D G M E N T

1. This case was taken on file on the basis of the final report filed by the Sub Inspector, Naruvamoodu Police Station in Crime No. 621/2019, alleging commission of offences punishable u/s. 279, 337, 338 and 304(A) of IPC.
2. The prosecution case is as follows: The accused in a rash and negligent manner was driving his motorcycle bearing registration No. KL-01-AY-5103 from Naruvamoodu to Pravachambalam on 20.09.2019. When he reached at Mottamoodu junction, Pallichal village at 05.30 pm, the motorcycle hit on an 80 year old pedestrian named Appiyamma. She suffered serious injuries due to the accident and succumbed to death due to the seriousness of injuries on 02.10.2019 at Medical College Hospital, Thiruvananthapuram. The accused thereby committed the offences punishable u/s.279, 337, 338 and 304(A) of IPC.
3. On appearance of the accused, he was enlarged on bail. He was represented by a counsel of his own choice. He was furnished with copies of relevant prosecution records and thereby the mandate u/s. 207 Cr.PC is complied with. Particulars of offence punishable u/s. 279, 337, 338 and 304(A) of IPC was read over and explained to the accused to which he pleaded not guilty.
4. From the side of the prosecution, CW1 to CW4 and CW16 were examined as PW4, PW1, PW2, PW3 and PW5 respectively and Exts. P1 to P14 were marked. PW1 to PW4 turned hostile to the case of prosecution. Since the material witnesses turned hostile to the case of prosecution, examination of CW5 to 15 were given up by learned APP. Since there were incriminating

circumstances against the accused he was examined u/s.351(1)(b) of BNSS. He denied the incriminating circumstances and maintained the plea of innocence. Thereafter the accused was called upon to enter his defence. No defence evidence was adduced from the side of accused. Heard the learned Assistant Public Prosecutor and learned counsel for the accused.

5. The following points arise for consideration in this case:

1. *Whether the accused on 20.09.2019 at 05.30 pm, at Mottamoodu junction in Pallichal village, drove the motorcycle bearing registration No. KL-01-AY-5103 in a rash and negligent manner and thereby committed offence punishable u/s.279 of IPC?*
2. *Whether the accused, on 20.09.2019 at 05.30 pm, at Mottamoodu junction in Pallichal village, drove the motorcycle bearing registration No. KL-01-AY-5103 in a rash and negligent manner and caused hurt to Appiyamma and thereby committed offence punishable u/s.337 of IPC?*
3. *Whether the accused, on 20.09.2019 at 05.30 pm, at Mottamoodu junction in Pallichal village, drove the motorcycle bearing registration No. KL-01-AY-5103 in a rash and negligent manner and caused grievous hurt to Appiyamma and thereby committed offence punishable u/s.338 of IPC?*
4. *Whether the accused on 20.09.2019 at 05.30 pm, at Mottamoodu junction in Pallichal village, drove the motorcycle bearing registration No. KL-01-AY-5103 in a rash and negligent manner and caused death of Appiyamma and thereby committed offence punishable u/s.304(A) of IPC?*
5. *What is the finding and sentence?*

6. **Point Nos. (1) to (4) :** For the sake of convenience, these points are considered together. The son of deceased Appiyamma was examined as PW4. He deposed that his mother died in a vehicle accident. He gave Ext.P2 FIS to the police regarding the incident. PW1 and PW2 are occurrence witnesses, they turned hostile to the case of prosecution by

stating that they had not seen the incident. PW3 is an attesting witness to Ext.P1 scene mahazar.

7. PW5 is the investigating officer. He deposed that he had registered recorded Ext.P1 FIR on the basis of Ext.P1 FIS. He prepared Ext.P4 inquest report of the deceased Appiyamma. He went to the scene of occurrence and prepared Ext.P1 scene mahazar. He gave Ext.P5 notice to the owner of the motorcycle and received Ext.P6 reply notice for the same. He seized the motorcycle involved in the accident through Ext.P7 seizure mahazar. He released the motorcycle to the RC Owner through Ext.P8 3rd party kaicheat. He produced Ext.P9 AMVI report before the court. He arrested the accused and released him on Ext.P10 bail bond. He filed Ext.P11 report to add section 304 (A) of IPC. He produced Ext.P12 address report of the accused. He produced Ext.P13 and P14 wound certificate and postmortem certificate before the court. He completed investigation and filed final report before the court.
8. To bring the guilt of rash and negligent driving against the accused, three things need to be proved by the prosecution beyond any reasonable doubt. The three essential ingredients are as follows:-
 1. That the accident actually took place.
 2. That the accident took place due to rash and negligent driving.
 3. That the accused was the person who was driving the offending vehicle at the relevant time.
9. From the evidence of PW1 and Ext. P3 inquest report, it could be concluded that Appiyamma deceased on 02.10.2019. Now the point that is to be consider is whether the act which resulted in her death was done by the

accused. The prosecution allegation is that accused drove the motorcycle in a rash and negligent manner and caused the death of Appiyamma. PW4 has only hearsay knowledge regarding the incident. PW1 and PW2 who are the occurrence witnesses turned hostile to the case of prosecution. There are no other witnesses or documents before this court to prove that it was the accused who caused the alleged accident. The Hon'ble High Court of Kerala in ***Palliyalil Sidique v State of Kerala 2013 (3) KLJ 470*** held that if no witness has identified the accused and there is no consistent version regarding rashness or negligence, accused is entitled for an acquittal.

10. There is no evidence on record to show that it was the rash and negligent act of the accused which resulted in the death of the said Appiyamma. Evidence of PW1 to PW5 alone are not sufficient to prove the guilt of the accused. There is no evidence before the court to show that the accused was driving the alleged motorcycle at the time of accident. The prosecution even failed to prove the identity of the accused. In the absence of substantive evidence it could not be concluded that it is the accused who committed the offence.

11. The doctor who conducted the postmortem of the deceased Appiyamma was also not examined by prosecution. Hence there is serious lacuna with regard to cause of death of Appiyamma. The AMVI who prepared inspection reports was also not examined. Hence it cannot be decided that whether the accident occurred due to any mechanical defect of the vehicle. Moreover no one deposed before the court with respect to how the alleged accident occurred. In the absence of other evidence it could not

be concluded that it is the rash and negligent act of the accused resulted in the death of the said Appiyamma.

12. In order to find the accused guilty the allegation levelled against the accused should be proved beyond reasonable doubt. If there is a narrow strip of doubt it should be given in favour of the accused. Here there is absolutely no evidence to show that accused drove the vehicle in a rash and negligent manner. Moreover his presence in the scene of occurrence is also not proved. Hence in the absence of sufficient evidence, the accused is entitled for an acquittal. The point is found against the prosecution.

13. **Point No.(5):** In the light of the findings in point Nos.(1) to (4), accused is found not guilty of the offence u/s. 279, 337, 338 and 304(A) of IPC and he is acquitted of the said offences u/s.278(1) of BNSS. His bail bond 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 on this, the 10th day of April, 2026.

Sd/-
JUDICIAL FIRST CLASS MAGISTRATE – III
NEYATTINKARA

A P P E N D I X

Witnesses for the prosecution

PW1 : Sreekumar (CW2)
PW2 : Sarathchandran (CW3)
PW3 : Vinod (CW4)
PW4 : John (CW1)
PW5 : Padmachandran (CW16)

Exhibits for the prosecution

P1 : Scene Mahazar dated 24.09.2019 proved by PW3
 P2 : FIS dated 24.09.2019 proved by PW4
 P3 : FIR dated 24.09.2019 proved by PW5
 P4 : Inquest report dated 02.10.2019 proved by PW5
 P5 : Notice dated nil proved by PW5
 P6 : Reply notice dated nil proved by PW5
 P7 : Vehicle mahazar dated 15.10.2019 proved by PW5
 P8 : 3rd party kaichit dated nil proved by PW5
 P9 : AMVI report dated 03.09.2019 proved by PW5
 P10 : Bail bond dated 29.09.2019 proved by PW5
 P11 : Section alteration report dated 02.10.2019 proved by PW5
 P12 : Accused identification report dated nil proved by PW5
 P13 : Wound certificate dated 20.09.2019 proved by PW5
 P14 : Postmortem certificate dated 02.10.2019 proved by PW5

MO's for the prosecution NIL

Witnesses for the defence : NIL

Exhibits for the defence : NIL

Sd/-

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