

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS
THALASSERY**

**Present:- Sri. Jankish Narayanan
JUDICIAL MAGISTRATE OF THE FIRST CLASS**

**Dated this the 2nd day of April, 2025
(12th day of Chaithra, 1946 S.E)**

CC. No. 1176/2019

Complainant	:	Sub Inspector of Police, Thalassery Police Station Cr. No. 508/2019 (By Sri. Lareesh P, APP Gr. II, Thalassery)
Accused	:	Keerthan Prakash, Age. 22/2019, S/o Prakashan P, Thazhe Perunthattil House, (PO) Perunthattil, Thalassery. (By Adv. Sri. M M Hashim)
Offence	:	U/s 279 and 304 (A) of the IPC.
Pleading	:	Not Guilty.
Finding	:	Not Guilty.
Sentence or Order	:	The accused is found not guilty of the offences punishable U/s 279 and 304 (A) of the IPC and he is acquitted U/s 255 (1) of the Cr.P.C.

Description of Accused

Sl.No	Name	Father's Name	Occupation	Residence	Age
1	Keerthan Prakash	Prakashan P	-	Thalassery	22/2019

Date of:-

Offence	:	17.05.2019
Complaint	:	21.05.2019
Apprehension	:	31.05.2019
Release on bail	:	31.05.2019

Commencement of trial	:	13.11.2020
Close of trial	:	01.04.2025
Sentence/Order	:	02.04.2025
Service copy of judgment	:	

J U D G M E N T

The accused was put on trial for the offences punishable under Sec. 279 and 304 (A) of the IPC on the basis of Final Report filed in Cr. No. 508/2019 by the Sub Inspector of Police, Thalassery Police Station.

2. **The case of the Prosecution in brief, is as follows:-** The accused being the rider of the Motor Cycle bearing Reg. No. KL-58-Q-8855, rode the same along Kuthuparamb- Thalassery public road on 17.05.2019 at 09.30 hours, in a rash and negligent manner so as to endanger human life and hit down a pedestrian by name Mayan at Chirakkara, causing severe injuries to him. Mayan later succumbed to the injuries at the Hospital. Hence, the accused is said to have committed the offences punishable U/s 279 and 304 (A) of the IPC.

3. The accused is on bail. On the appearance of the accused, he was served with copies of all relevant records relied upon by the Prosecution. After hearing the accused and perusing the documents, the particulars of the offences under S. 279 and 304 (A) of the IPC were read over and explained to him, to which he pleaded not guilty and claimed to be tried.

4. PW1 to PW4 were examined and Exbts. P1 to P7 were marked on the side of the Prosecution. After the evidence of the Prosecution, the accused was questioned U/s 313 (1) (b) of the Cr.P.C. The incriminating facts in the evidence were put to him. He denied the same and pleaded innocence. He was then called upon U/s 254 of the Cr.P.C to enter upon his evidence. He chose not to adduce evidence in defence.

5. In the facts, evidence and circumstances of this case, the following points are arising for consideration:-

- I. Whether the accused rode the Motor Cycle bearing Reg. No. KL-58-Q-8855, in a rash or negligent manner, so as to endanger human life along the public road at Chirakkara, Thalassery on 17.05.2019 at 09.30 hours, as alleged?
- II. Whether the accused, in the course of the above transaction, caused the death of Mayan, by his rash or negligent act, as alleged?
- III. Has the Prosecution proved the offences punishable under S. 279 and 304 (A) of the IPC as against the accused?
- IV. If so, what should be the proper order or sentence?

6. Heard both sides.

7. **Points No. I and II:-** These points are interconnected and therefore, discussed together. The Prosecution case is that the accused, being the rider of the Motor Cycle bearing Reg. No. KL-58-Q-8855, rode the same along Kuthuparamb- Thalassery public road on 17.05.2019 at 09.30 hours, in a rash and negligent manner so as to endanger human life and hit down a pedestrian by name Mayan at Chirakkara, causing severe injuries to him. Mayan later succumbed to the injuries at the Hospital.

8. PW1 is cited as a witness to the occurrence. He was the neighbour of deceased Mayan. He testified that he did not see the accident involved in this case. He was declared as hostile to the Prosecution. He saw the Police conducting inquest on the body of deceased Mayan and preparing Exbt. P1 Inquest Report in which he vouched his signature as a witness. According to him, the case was settled and he has no grievance against the accused.

9. PW2 was the Forensic Surgeon at Govt. General Hospital, Thalassery. He conducted post mortem examination on the body of C O T Mayan, aged 75 years on 22.07.2019 from 02.30 pm to 03.30 pm. He issued Exbt. P2 Post Mortem Certificate. There were 5 antimortem injuries, out of which, injuries No.1 found to be fatal. The death was caused for complication of head injury.

10. PW3 was the then Senior Civil Police Officer at Thalassery Police Station. He recorded Exbt. P3 FIS of Firos T K and registered Exbt. P4 FIR.

11. PW4 was the then Senior Civil Police Officer at Thalassery Police Station. He was entrusted with the investigation of the case on 22.05.2019. He proceeded to the place of the accident and prepared Exbt. P5 Scene Mahazar. He arrested the accused on 31.05.2019 by preparing Exbt. P6 Arrest Memo. He inspected the vehicle involved in this case and prepared Exbt. P7 Body Mahazar. He recorded the statements of CW1 to CW11.

12. The defence opposed the case of the Prosecution. The defence would argue that the accused is not involved in the crime as alleged by the Prosecution. He was falsely implicated in this case.

13. In order to prove the offences alleged against the accused, the Prosecution has examined PW1 to PW4 and marked Exbts. P1 to P7 documents. CW1

is the witness to the occurrence. Despite receipt of the summons, he did not appear before the Court. NBW issued against him. Steps issued against him was executed vide Exbt. C1 Report. But, he did not appear before the Court. As stated above, the presence of CW1 could not be procured despite coercive steps. In *Abdul Rehman Antulay v. R. S. Nayak*, (1992 (1) SCC 225), the Hon'ble Supreme Court held that "Fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused persons to be tried speedily. Right to speedy trial is the right of the accused persons. The fact that a speedy trial is also in public interest or that it serves the social interest also, does not make it any the less the right of the accused persons. It is in the interest of all concerned that the guilt or innocence of the accused persons are determined as quickly as possible in the circumstances". On perusal of the records, it is not in dispute that the Motor Cycle Reg. No. KL-58-Q-8855 was involved in the accident and in the said accident, Mayan had sustained injuries. Later, he succumbed to the injuries at the Hospital. The requirements of Sec. 304 (A) are that the death of any person must have been caused by the accused doing any rash or negligent act. In other words, there must be proof that the rash or negligent act of the accused was the proximate cause of the death. The learned counsel for the accused has contended that since there is no legal evidence to prove that the accused was driving the offending vehicle at the relevant time, the accused is entitled to the benefit of the doubt. PW1 testified that he did not see the accident involved in this case. Though PW1 was further examined by the learned Assistant Public Prosecutor with permission under section 154 of Indian Evidence Act and under proviso to section 162 (1) of the Code of Criminal Procedure, nothing could be brought to incriminate the accused. PW4 testified that he arrested the accused on 31.05.2019 by preparing Exbt. P6 Arrest Memo. The mere arrest of a person does not indicate that he was involved in the crime. PW1 further testified that the case was settled and he has no grievance against the accused. As discussed above, the Prosecution has miserably failed to prove that the accident occurred

due to the rash and negligent driving of the accused. Absolutely, no material is on record to show that the accused drove the vehicle in a rash or negligent manner at the time of the accident. Therefore, these points are found against the Prosecution.

14. **Point No. III:-** As discussed above, there is no evidence to prove the commission, by the accused, of the offences punishable U/s. 279 and 304 (A) of the IPC, as alleged by the Prosecution. Hence, this point is also found against the Prosecution.

15. **Point No. IV:-** In view of my findings on points No. I to III, the accused is found not guilty of the offences charged against him. Thus, this point does not arise for consideration.

In the result,

- 1). The accused is found not guilty of the offences punishable U/s. 279 and 304 (A) of the IPC and he is acquitted U/s 255 (1) of the Cr.P.C. His bail bond stands cancelled and he is set at liberty.
- 2). The Motor Cycle bearing Reg. No. KL-58-Q-8855 was released on *Kacheet*. Said orders shall become absolute.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open Court, this the 2nd day of April, 2025)

sd/-

**JUDICIAL FIRST CLASS MAGISTRATE,
THALASSERY**

APPENDIX

Witnesses examined for Prosecution :

PW1	:	Anwar	(CW2)
PW3	:	Dr. Jithin	(CW15)
		Forensic Surgeon	
		Govt. General Hospital, Thalassery	
PW3	:	Jayakrishnan	(CW16)
		Senior Civil Police Officer	
		Thalassery Police Station	
PW4	:	Shaheer	(CW17)
		Senior Civil Police Officer	
		Thalassery Police Station	

Exhibits marked for prosecution:

Exbt. P1	:	Inquest Report
Exbt. P2	:	Post Mortem Certificate
Exbt. P3	:	FIS
Exbt. P4	:	FIR
Exbt. P5	:	Scene Mahazar
Exbt. P6	:	Arrest Memo
Exbt. P7	:	Body Mahazar

M.O's Marked :

Nil.

Witnesses examined for Defense :

Nil.

Exhibits marked for Defense:

Nil.

sd/-

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