

**IN THE COURT OF SPECIAL JUDICIAL FIRST CLASS
MAGISTRATE, (MARAD CASES), KOZHIKODE**

Present:- Sri. Vivek. P. Special Judl. First Class Magistrate
(Marad Cases) Kozhikode.

Dated this the 30th day of January, 2024

CC No. 121/2022

Complainant : State rep. by Sub Inspector of Police,
City Traffic police Station, in Crime No.529/2018
(By Smt. A. Aruna., APP Sr.Grade)

Accused : Imthiyas Khan, age 22/18, S/o Jakkir Hussain,
Pullanniparamb house, Areekkodu, PO Nallalam.
(By Adv. K. Akhil)

Offence : U/s. 279, 338 IPC

Plea : Not guilty

Finding : Not guilty

Sentence or order : Accused is acquitted U/s. 255(1)CrPC.

DESCRIPTION OF ACCUSED:-

Sl No.	Name	Father's name	Residence	Occupation	age
1	Imthiyas Khan	Jakkir Hussain	Nallalam	-	22/18

DATE OF

Occurrence : 19.3.2018

Complaint : 29.6.2018

Filing : 4.7.2018

Apprehension of accused : 15.10.2022

Release on bail : 15.10.2022

Commencement of trial : 29.5.2023
Close of trial : 30.1.2024
Sentence or order : 30.1.2024

J U D G M E N T

This is a case charge sheeted by the Sub Inspector of Police, City Traffic Police Station against accused alleging commission of offences punishable under sections 279, 338 of the Indian Penal Code in crime No. 529/2018 of that Police Station.

2. **The prosecution case, in short, is as follows:** – On 19.3.2018 at 8.30 pm, while the father-in-law of the defacto complainant named Raghavan S/o Chathan was crossing the road near Raja Talkies in Meenchantha- Farooq NH Road, the accused came in a motorcycle bearing registration No. KL-11BC/7865 in rash and negligent manner so as to endanger human life and hit against the said Raghavan and as a result of which he fell down and sustained grievous head injuries. With the above allegations, accused is alleged to have committed the above-mentioned offences.

3. On receipt of final report, this Court took cognizance for the offence punishable under sections 279, 338 IPC and summon was issued to the accused. In response, he appeared. On his appearance, he was supplied, u/s. 207 Cr. P.C, with copies of the final report and all relevant documents produced therewith by the prosecution. When the particulars of the

offences under sections 279, 338 IPC was stated to him, he pleaded not guilty and wanted to be tried.

4. Thereupon, prosecution examined PW1 to PW4 and Ext.P1 marked. Remaining witnesses were given up by the learned Assistant Public Prosecutor.

5. As the material witnesses examined by the prosecution did not speak anything incriminating against accused, his examination under section 313 (1) (b) Cr. P.C., was dispensed with.

6. Accused did not adduce any evidence.

7. Heard.

8. The points that arise for adjudication are:-

1. Did the accused on 19.03.2018 at 08.30 a.m, ride the motorcycle bearing registration No.KL-11BC/7865 in a rash and negligent manner so as to endanger human life through Meenchantha - Farooq NH road as alleged and thereby committed offence punishable under section 279 IPC as alleged?
2. Did PW2 sustained grievous injuries due to the rash and negligent riding of the motorcycle bearing registration No.KL-11BC/7865 by the accused and thereby committed offence punishable under section 338 IPC as alleged?
3. Sentence or order?

9. **Point Nos. 1 and 2:-** The evidence in this case consists of oral evidence of PW1 to PW4 and Ext.P1. PW1 is the defacto complainant. The

injured is his father-in-law. Ext.P1 is the complaint lodged by PW1. PW2 is the injured. He deposed that he sustained injuries in the incident. But he did not know the accused. He turned hostile to the prosecution. He denied that he is giving false statement in order to help the accused. PW3 and PW4 are the occurrence witnesses. They turned hostile to prosecution and stated that they did not see the accident.

10. The material witnesses have given destructive version before the court and they did not support the prosecution case. No other evidence has been adduced by the prosecution to prove that the accused has committed the offences leveled against him. Therefore, I find that the prosecution has miserably failed to establish the guilt of the accused. If so, accused is entitled for clean acquittal. Thus, the points are found against the prosecution.

11. Point No.3:- In view of the findings on forgoing points, the accused is entitled to be acquitted.

In the result, accused is found not guilty of the offences under section 279, 338 of the Indian Penal Code and he is acquitted under section 255 (1) of Cr. P.C. The bail bond executed by him is cancelled and he is set at liberty forthwith.

(Dictated to C.A transcribed by her, corrected and pronounced by me in open court on this the 30th day of January, 2024)

Special Judicial First Class Magistrate
(Marad Cases), Kozhikode

APPENDIX

Witness examined for Prosecution

PW1 : Aneesh Babu CW1

PW2 : Raghavan CW2

PW3 : Musthafa CW3

PW4 : C.K. Sasi CW4

Exhibits marked for the prosecution :

P1 : F.I. Statement dt. 25.3.18 marked through PW1

Witnesses examined for defence : NIL

Exhibits marked for Defence: NIL

Special Judl. 1St Class Magistrate,
(Marad Cases), Kozhikode