



2026:KER:48816

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

WEDNESDAY, THE 1<sup>ST</sup> DAY OF JULY 2026 / 10TH ASHADHA, 1948

CRL.REV.PET NO. 1821 OF 2009

AGAINST THE JUDGMENT DATED 12.12.2008 IN Cr1.A  
NO.112 OF 2008 OF ADDITIONAL SESSIONS COURT-I,  
MAVELIKKARA, ARISING OUT OF THE JUDGMENT DATED 29.01.2008  
IN CC NO.242 OF 2006 OF JUDICIAL MAGISTRATE OF FIRST  
CLASS- I, HARIPAD

REVISION PETITIONER/APPELLANT/ACCUSED:

SURESH KUMAR  
S/O.RAVINDRAN NAIR, T.C.1659/8,  
KRISHNAVILASOM HOUSE, DEVI NAGAR 136,  
PEROORKADA VILLAGE, THIRUVANANTHAPURAM

BY ADVS.  
SRI.G.PRIYADARSAN THAMPI  
SHRI.SYAM J SAM

RESPONDENT/RESPONDENT/COMPLAINANT & STATE:

STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV SHRI.JOSE ANTONY

PP, SMT. TANYA JOY

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR  
ADMISSION ON 01.07.2026, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



## **ORDER**

This Criminal Revision Petition has been filed under Section 397 r/w Section 401 of the Code of Criminal Procedure, challenging the judgment dated 12.12.2008 in CrI. Appeal No. 112/2008 on the file of the Additional Sessions Court-I, Mavelikara, arising out of the judgment dated 29.01.2008 in C.C. No. 242/2006 on the file of the Judicial First Class Magistrate Court-I, Haripad. The revision petitioner, who was the sole accused in the said case, stands convicted for the offences punishable under Sections 279 and 304A of the IPC.

2. The prosecution case in brief is as follows;

The prosecution case is that, on 15.08.2004, at about 7:45 p.m., while the complainant's husband was riding a motorcycle bearing registration No. KL-05-F-4159 along the Kollam-Alappuzha National Highway, the accused, who was riding another motorcycle bearing registration No. KL-1-G-7638 in a rash and negligent manner, hit the motorcycle ridden by the complainant's husband. It is alleged that due to the impact of the hit, the husband of the complainant sustained fatal injuries and subsequently succumbed to the same. Hence, the accused is alleged to have committed the above-said offences.

3. In order to bring home the guilt of the accused, the



prosecution had examined nine witnesses as PW1 to PW9 and marked Exts. P1 to P8. After closure of the prosecution evidence, the accused was questioned under Section 313 of the Code of Criminal Procedure, during which he denied all incriminating circumstances put to him. After hearing both sides, the learned Magistrate found the accused guilty of the offences punishable under Sections 279 and 304(A) of the IPC and sentenced him to undergo simple imprisonment for a period of six months for the offence punishable under Section 279 of the IPC. For the offence punishable under Section 304(A) of the IPC, the accused was sentenced to undergo simple imprisonment for one year. Further, his driving licence was also ordered to be suspended for six months.

4. Aggrieved by the said judgment, the accused preferred Crl. Appeal No.122/2008. The learned Additional Sessions Judge-I, Mavelikara, who heard the appeal, confirmed the conviction and sentence imposed by the trial court. Challenging the said appellate judgment, the accused has filed the present revision petition.

5. Heard Sri. Priyadarsan Thampi, the learned counsel appearing for the revision petitioner and Smt.Tanya Joy, the learned Public Prosecutor, and also perused the records.

6. The learned counsel for the revision petitioner submitted that



the revision petitioner is totally innocent of the allegations levelled against him. According to the learned counsel, the trial court as well as the appellate Court convicted the accused without properly appreciating the facts and evidence brought out in this case in a hasty manner. It was also further submitted that while imposing the sentence, the appellate court ought to have shown some leniency, because the parties have amicably settled their disputes and the legal heirs of the deceased have already received compensation under the provisions of the Motor Vehicles Act.

7. Per contra, the learned Public Prosecutor submitted that both the trial court and the appellate court have concurrently found the accused guilty based on the cogent and convincing evidence of PW3 and PW4, who are occurrence witnesses. It was further submitted that the evidence of PW3 and PW4 clearly establishes that the accused was riding the vehicle in a rash and negligent manner. Hence, according to the learned Public Prosecutor, no interference is warranted with the impugned judgment.

8. Before delving into a detailed discussion regarding the scope of interference in the impugned judgment, it is worthwhile to note that the scope of interference in a revision petition is too limited. By a series of



judicial pronouncements, it is well settled that a court exercising revisional jurisdiction will interfere with the findings of the trial court or the appellate court only when such findings suffer from illegality, impropriety, or perversity. Unless it is shown that the judgment of the Trial Court or the Appellate Court is perverse, unreasonable, or suffers from non-consideration of relevant material or misreading of evidence, interference in revision is not warranted. The revisional court cannot reappreciate the evidence as an Appellate Court and substitute its own view merely because another view is possible.

9. In **State of Kerala v. Puttumana Illath Jathavedan Namboodiri** [AIR 1999 SC 981], the Hon'ble Supreme Court held thus:

*"In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice."*

10. Keeping in mind the above principles, while reverting to the present case, it can be seen that this is a case in which a 32-year-old man



lost his life in a road traffic accident allegedly due to the rash and negligent driving of the accused. As already stated, in order to prove the prosecution case, nine witnesses were examined as PW1 to PW9, and among them, PW3 and PW4 are occurrence witnesses. Both the said witnesses had given a detailed account of the incident before the trial court. Their evidence is consistent on the material aspects, particularly regarding the fact that, at the time of the occurrence, the accused was riding the motorcycle at a high speed and in a rash and negligent manner, without due regard for the safety of other road users. Although PW3 and PW4 were subjected to extensive cross-examination, nothing was elicited to discredit their testimony or to cast any doubt on their version of the occurrence. Significantly, both witnesses identified the accused before the court as the rider of the offending motorcycle.

11. The evidence of PW3 and PW4 clearly establishes that the accused was riding the vehicle in a rash and negligent manner. Both the trial court and the appellate court have concurrently found that their testimony is reliable and inspires confidence. I find no reason to take a different view, as their evidence is mutually corroborative and is free from any material contradictions or omissions. Equally significant is the fact that the accused has no case that PW3 or PW4 bore any animosity or ill will against him that could have motivated them to falsely implicate



him in a case of this nature. Their identification of the accused before the court also appears to be cogent and convincing.

12. In the case at hand, both the trial court and the appellate court have undertaken a detailed appreciation of the oral and documentary evidence and have concurrently found that the prosecution has succeeded in proving the charges against the accused beyond reasonable doubt. I do not find any illegality, perversity, or impropriety in the appreciation of evidence undertaken by the trial court and the appellate court. The concurrent findings regarding the identification of the accused and the manner in which the accident occurred are fully supported by the evidence on record. Consequently, I find no reason to interfere with the well-considered judgment of the appellate court affirming the conviction of the accused for the offences punishable under Sections 279 and 304A of the Indian Penal Code.

13. However, the learned counsel for the revision petitioner submitted that the parties have amicably settled their disputes. An affidavit sworn to by the wife of the deceased has also been placed on record. It is evident therefrom that the legal heirs of the deceased have already received compensation under the provisions of the Motor Vehicles Act and that the wife of the deceased has stated that she has no



subsisting grievance against the accused.

14. Nevertheless, this Court is conscious of the fact that the offence punishable under Section 304A of the Indian Penal Code is not compoundable. The offence cannot be treated as a purely private dispute, since offences involving rash and negligent driving resulting in the loss of human life have a clear societal dimension. Therefore, the settlement arrived at between the parties cannot constitute a ground for setting aside the conviction recorded against the accused. At the same time, such subsequent developments are relevant considerations while determining the appropriate sentence to be imposed.

15. Having regard to the fact that the parties have settled their disputes, that the legal heirs of the deceased have already been compensated under the Motor Vehicles Act, I am of the view that some leniency can appropriately be shown in the matter of sentence without altering the finding of guilt.

In the result, this Criminal Revision Petition is allowed in part. While confirming the conviction of the revision petitioner/accused for the offences punishable under Sections 279 and 304A of the Indian Penal Code, the sentence imposed by the appellate court is modified as follows:



(i) For the offence punishable under Section 279 of the Indian Penal Code, the accused shall pay a fine of ₹500/-. In default of payment of the fine, the accused shall undergo simple imprisonment for a period of seven days.

(ii) For the offence punishable under Section 304A of the Indian Penal Code, the accused is sentenced to undergo imprisonment till the rising of the court and to pay compensation of ₹10,000/- to the wife of the deceased under Section 357(3) of the Code of Criminal Procedure. In default of payment of the compensation, the accused shall undergo simple imprisonment for a period of six months.

(iii) The revision petitioner shall appear before the trial court on 02.09.2026 to receive the sentence.

Sd/-  
**JOBIN SEBASTIAN**  
**JUDGE**

ANS