

Rasheeda vs State of Kerala

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Court : Kerala

Decided On : Jul-12-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/5260/2024

Appellant : Rasheeda

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS FRIDAY, THE 12TH DAY OF JULY 2024 / 21ST ASHADHA, 1946 CRL.MC NO. 5260 OF 2024 CRIME NO.458/2023 OF KARIPUR POLICE STATION, MALAPPURAM AGAINST THE ORDER/JUDGMENT DATED IN CC NO.1207 OF 2023 OF JUDICIAL MAGISTRATE OF FIRST CLASS-I,MANJERI PETITIONER/ACCUSED : RASHEEDA, AGED 38 YEARS W/O. AYUB, CHIRAKANDATHIL HOUSE, CALICUT AIRPORT P.O, KONDOTTY, MALAPPURAM DISTRICT-, PIN - 673 647. BY ADVS. P.C.MUHAMMED NOUSHIQ JAHANA SHERIN.K RESPONDENT/RESPONDENTS/STATE : 1 STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031. 2 STATION HOUSE OFFICER KARIPPUR POLICE STATION, MALAPPURAM DISTRICT-, PIN - 673 647. SMT.SREEJA V (PP) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BECHU KURIAN THOMAS, J
..... CrI.M.C.No.5260 of 2024
..... Dated this the 12th day of July, 2024

ORDER

Petitioner is the sole accused in C.C.No.1207/2023 on the files of the Judicial First Class Magistrate-I, Manjeri, which arises out of Crime No.458/2023 of Karippur Police Station. The offences alleged against the petitioner include those under Section 336 of the Indian Penal Code, 1860, apart from Section 199A(1), and 199A(2) of the Motor Vehicle Act, 1988 (for short, the Act).

2. According to the prosecution, the accused had, on 04.07.2023,

permitted a minor to ride a scooter bearing registration No.KL-10/BA-8402, in a rash and negligent manner, endangering the life and personal safety of the general public, thereby committing the offences alleged.

3. I have heard Sri.P.C.Muhammed Noushiq, the learned counsel for the petitioner, and Smt.Sreeja V., the learned Public Prosecutor.

4. The learned public prosecutor, upon instructions submitted that, though a Social Background Report (SBR) has been submitted to the Juvenile Justice Board, no entry of the crime has been recorded in the General Diary.

5. In the decision in Sharafudheen vs. State of Kerala [2024 KHC

online 522], this Court had observed that the offence under Section 199A of the Act requires, as its primary ingredient, the commission of offence by a minor. It was also observed that the prosecution against the guardian of the minor under Section 199A of the Act can be initiated only after an entry is made in the General

Diary regarding the offence allegedly committed by the minor. The corollary of the said finding is that when no such entry has been recorded in the General Diary, obviously the minor cannot be said to have committed an offence. In the absence of commission of an offence by the minor under the Motor Vehicles Act, 1988, the offence under Section 199A of the Act cannot be attracted.

6. As far as Section 336 of IPC is concerned, in the absence of any

material to show that the minor had driven the vehicle or committed an offence under the Act, certainly the nature of the allegations raised in the case cannot be attributed to the petitioner. Hence, the prosecution against the petitioner in the above referred crime is an abuse of the process of Court.

7. Accordingly, all proceedings in C.C.No.1207/2023 on the files of the

Judicial First Class Magistrate-I, Manjeri, against the petitioner is hereby quashed. This Crl.M.C is allowed as above. sd/- BECHU KURIAN THOMAS JUDGE
AMV/15/07/2024 APPENDIX OF CRL.MC 5260/2024 PETITIONER ANNEXURES
ANNEXURE A1 TRUE COPY OF THE FIR DATED 04.07.2023 IN CRIME NO.
458 OF 2023 OF KARIPPUR POLICE STATION, MALAPPURAM DISTRICT.
ANNEXURE A2 CERTIFIED COPY OF THE FINAL REPORT ALONG

WITH MEMORANDUM OF EVIDENCE DATED 05.07.2023 IN CRIME NO. 458
OF 2023 OF KARIPPUR POLICE STATION, MALAPPURAM DISTRICT. TRUE
COPY

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