

Kumar vs State of Kerala

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Court : Kerala Orders

Decided On : Jul-30-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/6107/2024

Appellant : KUMAR

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 30TH DAY OF JULY 2024 / 8TH SRAVANA, 1946 CRIME NO.3226/2016 OF Traffic Police Station, TVM, CC NO.478 OF 2017 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, NEYYATTINKARA PETITIONER/ ACCUSED NO.1 : KUMAR AGED 46 YEARS VILAVANCODE TALUK, KANAYAKUMARI DISTRICT, TAMILNADU, PIN - 629160 BY ADV DHINESH KUMAR M. RESPONDENT/ STATE & DEFACTO COMPLAINANT : 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 DR NOBY DUTY MEDICAL OFFICER, DEPARTMENT OF GENERAL SURGERY, GOVERNMENT MEDICAL

COLLEGE HOSPITAL, THIRUVANANTHAPURAM, PIN - 695 011 BY
SRI. NOUSHAD K. A., PUBLIC PROSECUTOR THIS CRIMINAL MISC.
CASE HAVING COME UP FOR ADMISSION ON 30.07.2024, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

==--==--==--==--==--==--== Crl.M.C.No.6107 of 2024 ==--==--==--==--==--==
==--== Dated this the 30th day of July, 2024

ORDER

Petitioner is the accused in C.C.No.478 of 2017 on the files of the Judicial First Class Magistrate's Court-I, Neyyattinkara. He faces an indictment for the offences under Sections 279, 337 and 304A of the Indian Penal Code, 1860.

2. Prosecution alleges that on 21.07.2016, while the petitioner

was driving a transport bus bearing Registration No.TN-74-N-1782, it hit a pedestrian due to the rash and negligent driving, who later succumbed to his injuries on 01.09.2016 and thereby committed the offences alleged.

3. I have heard Sri.Dhinesh Kumar M., the learned counsel for the petitioner as well as Sri.Noushad K.A., the learned Public Prosecutor.

4. Though the petitioner contended that the accused has not

been identified and the prosecution will not be successful, I am of the view that the identification and other proof of commission of the offences are all matters to be decided in a trial. Considering the nature of contentions urged and also the materials available, especially the statement of CW3, I am of the view that this is not a fit case to exercise the jurisdiction under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023. Accordingly, I find no merit in this Crl.M.C. and it is dismissed. Sd/- BECHU KURIAN THOMAS, JUDGE RKM APPENDIX OF CRL.MC 6107/2024 PETITIONER'S ANNEXURES : Annexure 1 CERTIFIED COPY OF FIR IN CRIME NO Annexure 2 CERTIFIED COPY OF FINAL REPORT

CHARGE SHEET IN CC NO 478/2017 PENDING BEFORE JFCM I
NEYYATINKARA

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