

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

Crl.MC.No. 3021 of 2015 ()

CC 13/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT, ANDROTH

PETITIONER/ACCUSED :

**JAMALUDHEEN C.G., AGED 45 YEARS,
S/O.C.P.KUNHIKOYA, CHEMMANGOTH HOUSE,
KALPENI, LAKSHADWEEP - 682 557.**

**BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH**

RESPONDENTS/COMPLAINANT & STATE :

**1. THE STATION HOUSE OFFICER, MINICOY POLICE STATION,
UNION TERRITORY OF LAKSHADWEEP - 682 559.**

**2. THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031.**

**R1 BY SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN
R2 BY PUBLIC PROSECUTOR SMT. MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

Crl.MC.No. 3021 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE-I: CERTIFIED COPY OF THE FINAL REPORT WITH FIR.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

[CR]

B. KEMAL PASHA, J.

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Crl.M.C. No.3021 of 2015 B
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Dated this the 28th day of September, 2015

O R D E R

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Petitioner is the accused in CC No.13/2014 of the Judicial First Class Magistrate's Court, Androth, which has arisen from Crime No.6/2006 of Minicoy Police Station. Originally, the crime was registered for the offences punishable under Sections 279 and 338 IPC. Later, the rider of the motor bike died while undergoing treatment at the hospital in connection with the accident in question and consequently, the offence under Section 304A IPC is also incorporated.

2. According to the petitioner, he was only a cyclist, who was pedalling a bicycle, which allegedly hit on the motor bike and, therefore, he can only be termed as a pedestrian on the road. The further argument is that as the

cycle was not automatically propelled, offences under Sections 279, 338 and 304A IPC will not lie. The allegation against the petitioner is that all of a sudden, he came by pedalling a bicycle from the pocket road to the main road and caused the same to hit on the motor bike that was being ridden by the deceased through the main road. Consequently, he suffered extensive injuries and he died.

3. It cannot be said that in such a case, the offences under Sections 279, 338 and 304A IPC will not lie. If proved, the said offences will lie even against a cyclist. If a pedestrian is causing such an accident, the offence under Section 279 IPC will not lie. At the same time, in such case, the other two offences will lie. Matters being so, this Crl.M.C. is too premature and the same is only to be dismissed and, I do so.

In the result, this Crl.M.C. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/28/09

// True Copy //
PA to Judge