

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

Crl.MC.No. 4792 of 2015

CRIME NO. 862/2012 OF MUNAMBAM POLICE STATION , ERNAKULAM

PETITIONER(S) :

- 1. JANCY, AGED 32 YEARS,
W/O.PRADEEP, KAVUNGAL HOUSE,
EDAVANAKAD P.O., ERNAKULAM DISTRICT - 682 505.**
- 2. VISHNU PRADEEP, AGED 14 YEARS, (MINOR),
S/O.PRADEEP (LATE), KAVUNGAL HOUSE,
EDAVANAKAD P.O., ERNAKULAM DISTRICT - 682 505.**
- 3. VIJAYASREE PRADEEP, AGED 6 YEARS (MINOR),
D/O.PRADEEP (LATE), KAVUNGAL HOUSE, EDAVANAKAD P.O.,
ERNAKULAM DISTRICT- 682 505,
(THE MINOR PETITIONERS 2 & 3 REPRESENTED BY THEIR NATURAL
GUARDIAN AND MOTHER THE 1ST PETITIONER).**

**BY ADVS.SRI.P.CHANDRASEKHAR
SRI.S.PRASANTH
SRI.SOORAJ T.ELENJICKAL
SRI.P.A.MOHAMMED SHAH
SMT.UMA
SRI.K.NANDAKUMAR
SMT.V.A.HARITHA
SMT.P.M.MAZNA MANSOOR
SRI.P.VIVEK.**

RESPONDENT(S) :

**THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HON'BLE HIGH COURT, ERNAKULAM. KOCHI - 31.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE-A1: THE TRUE COPY OF THE FIR IN CRIME NO.862/2012 OF MUNAMBAM POLICE STATION.**
- ANNEXURE-A2: THE TRUE COPY OF THE INQUEST REPORT.**
- ANNEXURE-A3: THE TRUE COPY OF THE WOUND CERTIFICATE AND DISCHARGE CERTIFICATE IN RESPECT OF THE PRADEEP KUMAR.**
- ANNEXURE-A4: A TRUE COPY OF POSTMORTEM REPORT IN CRIME NO.862/12 OF MUNAMBAM POLICE STATION.**
- ANNEXURE-A5: A TRUE COPY OF THE FINAL REPORT DATED 05.10.2012 IN CRIME NO.862 OF MUNAMABAM POLICE STATION SUBMITTED BEFORE THE JFCM COURT, NORTH PARAVUR.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

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Crl.M.C. No. 4792 of 2015

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Dated this the 17th day of September, 2015

ORDER

The husband of the 1st petitioner died in a road traffic accident. The investigation has revealed that he was riding on his motor bike through the main road; while so another person, who was riding on an Activa Scooter abruptly came to the main road from the side pocket road without any signal, thereby, the husband of the 1st petitioner had to apply brake to the motor bike all of a sudden. It resulted in skidding of the motor bike, thereby he died. These facts have come up in the investigation. Even then, it seems that the Investigating Officer has not taken any steps to make the person, who was riding the Activa Scooter, as the accused in the case. In the case of a rash and negligent driving on a public road, an offence under Section 279 can be attracted.

2. As per Section 304A IPC, whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, is committing an offence under Section 304A IPC. It is pity that the Investigating Officer has not considered the said aspects and has chosen to refer the case as an accident on account of the negligence of the deceased. The matter requires further investigation.

3. In the result, the Circle Inspector of Police, Munambam is directed to carry out a further investigation in the matter under Section 173(8) Cr.P.C after informing the court below with regard to such further investigation. He shall complete such further investigation and file a final report within a period of 'six' months.

With the said direction, this Crl.M.C is disposed of.

Sd/-
B.KEMAL PASHA, JUDGE

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