

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

Crl.MC.No. 4251 of 2014

PETITIONER(S)/ACCUSED:

**SINAN K.V., AGED 13 YEARS (MINOR),
S/O. SANIUDEEN, KUNNARAVAYIL,
NARATH AMSOM, DESOM, KANNUR,
REPRESENTED BY HER MOTHER SUBAIDA, W/O. SANIDUEEN,
NARATH AMSOM DESOM,
KANNUR.**

**BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH**

RESPONDENT(S)/STATE AND COMPLAINANT:

- 1. STATION HOUSE OFFICER,
MAYIL POLICE STATION, KANNUR DISTRICT-670 001.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
19-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 4251 of 2014

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: THE TRUE COPY OF THE FINAL REPORT NO. 272/14 DATED 18-4-14 IN
CC 71/2014 ON THE FILE OF THE JUVENILE JUSTICE BOARD,
THALASSERY.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B.KEMAL PASHA, J.

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Crl.M.C. No. 4251 of 2014

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Dated this the 19th day of January, 2015

ORDER

A juvenile in conflict with law in C.C.No.71 of 2014 on the file of the Juvenile Justice Board, Thalassery, which has arisen from Crime No.265 of 2013 of the Mayyil Poilce Station, Kannur, has come up under Section 482 Cr.P.C. through his mother for getting the proceedings against him before the Juvenile Justice Board, Thalassery, quashed.

2. The allegation against the petitioner is that he got inside the cabin of a lorry and switched on its key, thereby starting the lorry. The lorry came behind rashly, thereby hitting the body of the lorry on the right hand of the victim girl aged 8, who was playing at the veranda of her house, thereby causing grievous hurt to her and severe damage to the

house.

3. Heard learned counsel for the petitioner and the learned Public Prosecutor and perused the C.D.

4. Admittedly, the petitioner was aged 13 at the time of occurrence. Therefore, it is not at all a case covered by Section 82 or 83 of the Indian Penal Code. According to the learned counsel for the petitioner, the petitioner was not in a position to exercise any discretion or intention and therefore his act could not be categorized as a reckless act. The law presumes that if a person is above the age of 12, he is not entitled to any such protection as such a person has got the capability and ability to exercise discretion and intention. Even if a child is between the age of 7 and 12, it is for the child to prove that the act was done on account of immature understanding or that the child had no capability to exercise any discretion or knowledge of the nature and quality of the act. Here when the petitioner above the age of 12, law presumes that he had the capacity to exercise discretion and

to understand the nature and quality of the act. Matters being so, there is no valid ground to quash the proceedings pending against the petitioner before the Juvenile Justice Board, Thalassery. Let the proceedings be continued.

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

Sd/-
B.KEMAL PASHA
JUDGE

DSV/19/1/15

// True Copy //

P.A. To Judge