

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Crl.MC.No. 6165 of 2014

**ST 3930/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - I, KOCHI
CRIME NO.603/2014 OF MARADU POLICE STATION**
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PETITIONER(S)/ACCUSED:

1. RAMESH, AGED 30,
S/O.RAMANAN, MUTHEDATHTHUNDIYIL NIRAVATH ROAD,
MARADU, ERNAKULAM.
2. ANTONY VARGHESE, AGED 26,
S/O.K.P.S JOSEPH, KUTTEZHATH HOUSE, NIRAVATH ROAD,
MARADU, ERNAKULAM.
3. RIVIN, AGED 24,
S/O.JOHN, KOLLAMPARAMBU HOUSE, VAKAYIL ROAD,
MARADU, ERNAKULAM.

BY ADV. SRI.SHERRY J. THOMAS

RESPONDENT(S)/STATE:

**STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR, MARADU POLICE STATION,
ERNAKULAM BY PUBLICPROSECUTOR, HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SMT.P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A1: POST CARD ISSUED TO 1ST PETITIONER.

ANNEXURE A2: POST CARD ISSUED TO 2ND PETITIONER.

ANNEXURE A3: POST CARD ISSUED TO 3RD PETITIONER.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P. UBAID, J.

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Crl.M.C. No.6165 of 2014

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Dated this the 11th day of February, 2015

ORDER

At about 6.30 pm on 15.04.2014, the Sub Inspector of Police of Maradu Police Station found the 1st petitioner herein riding on a motor cycle rashly and negligently and also in a drunken condition, with two pillion riders on the motor cycle. The vehicle was intercepted by the Sub Inspector of Police, and the rider and the pillion riders were taken into custody. The rider was also subjected to breath test. The Sub Inspector suo motu registered a crime against the three persons under Sections 279 IPC, 185, 188 and 119(1) read with 179 of the Motor Vehicles Act. The 1st petitioner herein is the said rider and the petitioners 2 and 3 are the pillion riders. They seek orders quashing the FIR and final report in Crime No.603/2014 registered by the Sub Inspector of Police, Maradu.

2. During the proceeding the Sub Inspector was required by this Court to explain how he initiated a prosecution against

the pillion riders. If the rider was found in a drunken condition or riding rashly and negligently, only the rider can be proceeded against; but the pillion riders cannot be prosecuted. It is not known how a prosecution is possible against the pillion riders under Section 279 IPC or under Section 185 of the Motor Vehicles Act. The explanation given by the Sub Inspector of Police is quite unsatisfactorily. Of course as regards the 1st accused, who is the rider, there is some material. He will have to face prosecution. There is result of breath test indicating presence of alcohol in his blood. It is a question of fact to be proved, whether the 1st accused was in fact found driving vehicle rashly and negligently. Thus, no doubt, the first petitioner will have to face trial. But the prosecution against the 2nd and 3rd petitioners is really unsustainable and is liable to be quashed. Much thought is not required to find that the proceedings as against petitioners 2 and 3 will have to be quashed.

In the result petition is allowed in part. The request of the 1st petitioner to quash prosecution is disallowed. But the prosecution against petitioners 2 and 3 as accused Nos.2 and 3 in S.T.No.3930/2014 on the file of Judicial First Class

Magistrate,-I, Kochi will stand quashed under Section 482
Cr.P.C.

Sd/-
P. UBAID, JUDGE

sj