

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
KADAKKAL**

Present:- Sri. **Amal. S. R., Judicial First Class Magistrate**

Dated this the 13th day of March, 2026

CMP No.01/2026 in CC. No. 665/2023

Petitioner/Accused : Shebeeb, S/o. Suhra Beevi
Melemadam, Banglamkunnu, Nilamel,
Chadayamangalam.
(By Adv. Sri. Shan.S)

Respondent : State of Kerala represented by
APP Kadakkal

Offences : Punishable u/ss.336 IPC, 180, 199(A), 1,2, MV
Act.

ORDER

The petitioner/accused has filed the present application seeking discharge from the offences alleged against him in the above case. The prosecution allegation is that the petitioner, being the registered owner of the scooter bearing Registration No. KL-24-K-1050, permitted his minor son to drive the said vehicle and thereby committed offences punishable under Section 336 of the Indian Penal Code and Sections 180 and 199A(1) & (2) of the Motor Vehicles Act.

2. The contention of the petitioner is that the allegations in the charge sheet are incorrect. According to the petitioner, the vehicle was used by his minor son without his knowledge or consent. It is further submitted that he came to know about the incident only when the police informed him from the police station. The petitioner also contends that he was not present at the place of occurrence and that the police records themselves disclose that he was not present at the scene. According to him, the prosecution has proceeded on the assumption that

the minor son drove the vehicle with his knowledge and consent, which according to the petitioner is factually incorrect. Hence he seeks discharge from the case.

3. The learned Assistant Public Prosecutor opposed the application and submitted that the contentions raised by the petitioner are matters to be considered during trial after evidence is adduced. However, the learned APP fairly submitted that the offence under Section 336 IPC would not lie against the petitioner.
4. At the outset, it is to be noted that the present case is a summons case instituted on a police report. Strictly speaking, the Code of Criminal Procedure does not provide for a stage of discharge in summons cases, unlike warrant cases where discharge is contemplated under Sections 239 and 245 Cr.P.C. In summons cases, the procedure prescribed under Section 251 Cr.P.C. requires the Magistrate to state the particulars of the offence to the accused when he appears before the court.
5. However, the Constitutional Courts have consistently held that merely because the Code does not expressly provide for discharge in summons cases, the Magistrate is not powerless to consider an application seeking termination of proceedings at the threshold where the allegations in the final report do not disclose the ingredients of the alleged offences. The courts have recognized that the Magistrate has the duty to ensure that the process of court is not abused and that an accused is not compelled to undergo an unnecessary trial when the allegations do not disclose any offence.
6. Therefore, even in summons cases, the Magistrate is competent to examine whether the allegations in the final report and the materials produced along with it disclose the ingredients of the offences alleged and, if the allegations are groundless or legally unsustainable, appropriate orders can be passed declining to proceed against the accused for such offences.

7. Coming to the present case, the petitioner is alleged to have committed the offence under Section 336 IPC. Section 336 IPC penalizes an act done rashly or negligently so as to endanger human life or the personal safety of others. The essential ingredient of the offence is the commission of a rash or negligent act by the accused which endangers human life or personal safety.
8. In the present case, the prosecution case itself is that the vehicle was driven by the minor son of the petitioner. There is no allegation that the petitioner himself committed any rash or negligent act at the place of occurrence. The materials in the final report do not disclose any overt act attributable to the petitioner which would attract the ingredients of Section 336 IPC. The learned Assistant Public Prosecutor has also fairly conceded that the said offence would not lie against the petitioner. Therefore, this Court is satisfied that the allegation under Section 336 IPC against the petitioner is groundless.
9. However, the final report also alleges offences under Section 180 of the Motor Vehicles Act and Section 199A(1) & (2) of the Motor Vehicles Act. Section 180 of the Motor Vehicles Act makes it an offence for the owner or person in charge of a motor vehicle to permit a person who does not satisfy the provisions relating to driving licence to drive the vehicle. Section 199A of the Motor Vehicles Act deals with offences committed by juveniles and the consequential liability of the guardian or owner of the motor vehicle.
10. Whether the petitioner had permitted or allowed the minor to use the vehicle, and whether the statutory liability under the said provisions is attracted, are matters that require appreciation of evidence during trial. At this stage it cannot be concluded that the allegations relating to those offences are groundless.
11. In such circumstances, this Court is of the view that the petitioner is entitled to relief only in respect of the offence under Section 336 IPC.

In the result, this petition is allowed in part. The petitioner/accused is discharged from the offence punishable under Section 336 of the Indian Penal Code. The application is dismissed in respect of the offences punishable under Sections 180 and 199A(1) & (2) of the Motor Vehicles Act. The case shall proceed against the petitioner for the remaining offences in accordance with law.

Pronounced by me in open court on this the 13th day of March, 2026.

Sd/-

Judicial First Class Magistrate, Kadakkal

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