

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS,
PATTAMBI

Present:- Smt. Neema Noor Mohamed, Judicial Magistrate of First Class
Friday, this the 29th day of May, 2026.

C.M.P. No. 02/2026 in S.T. No. 2195/2024.

Firoz.P.S, aged 52 years, S/o. Syed Muhammed, : Petitioner/Accused
Poovamparambil House, Pattambi P.O, Palakkad.
(By Adv. Sri. T.V. Ali.)

Vs.

State represented by the Sub Inspector of Pattambi : Respondent/Complainant
Police Station Crime No. 1215/2024.
(By: Smt. Reshmi.V.S. APP Gr.II.)

ORDER

The present petition is filed under section 262 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to discharge the accused.

2. Petition averments are as follows: Petitioner submits that the allegation leveled against the petitioner herein is under Section 5 r/w 180, 199 A (1), 199 A (2), of Motor Vehicle Act and under section 281 and 125 BNS. The petitioner has not committed any offence as alleged by the prosecution. The allegations against the petitioner (Accused) is that the petitioner, who is the RC owner has permitted a minor to ride his motorcycle bearing No. KL 52 Q 1539 and the accused thereby said to have committed the aforesaid offences. The police registered an F.I.R. and submitted the final report before this Hon'ble Court. The petitioner submits that none of the offences as alleged in the final report will attract against the petitioner (Accused) and the petitioner has not committed any such offences as alleged by the prosecution. As per section 199 A (1) of MV Act, it is sine qua non that the prosecution should prove that the minor has committed an offence by driving the vehicle then only the person who has given, either the guardian or the owner of the vehicle can be held liable for the offence alleged. In this case, no such offence are even charged against the alleged juvenile and in the absence of such, the prosecution/proceedings against the petitioner (Accused) cannot legally stand and cannot be continued.

3. Section 199 A (1) M.V Act reads as follows:

(1) Where an offence under this Act has been committed by a juvenile or the owner of the Motor vehicle shall be deemed to be guilty of the contravention and

shall be liable to be proceeded against and punished accordingly. As per the section 199 A(1) the guardian of a juvenile or owner of vehicle can be prosecuted for the said offence only if the juvenile was able to prove that the minor has committed an offence under the motor vehicle Act. It is to be noted that the said provision start with the words “where the offences under this act has been committed by juvenile” has got it's own legal footing and importance. In the case at hand even though it is stated that the juvenile has driven the Vehicle, no offence is charged against the said juvenile, In the absence of any provision, no offence under section 199A against the possessor/owner of vehicle would be attracted. So, in order to attract the offence against the owner, the prosecution should initially charge and prove the commission of offence by the juvenile that the juvenile/minor has driven the vehicle as allowed or authorized by the owner. Offence under section 199 A of the motor vehicle act. Besides the above ground, there is yet another aspect in this case. No material were produced by the prosecution in the final report to substantiate the age of the minor, who allegedly driven the vehicle. In the absence of any documents to prove the age of the minor, who allegedly driven the vehicle, it cannot be concluded that a juvenile has driven the vehicle. Since the allegation of the prosecution is that the petitioner has permitted or allowed a minor to drive a vehicle, it is a mandatory requirement that the prosecution initially should prove the age of the minor. Hence in the absence of materials to substantiate that a minor has driven the vehicle, the alleged prosecution cannot be legally leveled/ succeeded against the petitioner.

4. Heard both sides.

5. Learned APP for the State submitted that recently Hon’ble High Court of Kerala in ***Sharafudheen vs. State of Kerala 2024 4 KHC 405*** held that by the principle of parental or ownership accountability, the contribution of such parent or owner of the motor vehicle to the commission of the offence by the minor is, by a statutory fiction, treated as a criminal offence. The provision is intended to impose affirmative duties on persons responsible for the juvenile or owner of the vehicle to prevent the commission of offences by minors. The offence created is *sui generis*. Learned APP further submitted that the provision has been incorporated to combat crimes committed due to the contribution of the juvenile's guardian or the owner of a

motor vehicle. The offence is an independent and special category of crime, penalising the person who permits or provides an opportunity for the minor to commit a crime. The incriminatory conduct, though has its genesis in the principle of vicarious liability, an independent criminal culpability is created which does not require the juvenile to be prosecuted along with the parent or owner of the motor vehicle. The criminal act or the *actus reus* of the parent or owner is the conduct of permitting or allowing the juvenile to have access to the motor vehicle, while the criminal intent or *mens rea* is the knowledge that such a juvenile cannot drive a vehicle. Thus the offence has an independent existence despite one of the ingredients of the offence being the commission of offence by the minor.

6. On the other hand the petitioner argued that the said recent judgment reiterates that the proceedings against the guardian of a juvenile or owner of a motor vehicle under section 199A of the MV Act can be initiated only if information regarding the commission of an offence by the juvenile has been recorded in the General Diary. The recording of information in the General Diary has to be followed by the submission of a Social Background Report of the child in Form No. 1 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 without undue delay and at any rate, at least along with the final report.

7. Points for consideration

1. Whether the accused is entitled for discharge under section 262 BNSS?

8. **Point 1:-** The present case is one wherein the accused, the father of minor was charged under sections 281 and 125 BNS and section 5 r/w 180, 199 A(1), 199A(2) of the MV Act for permitting the minor child to ride the motorbike bearing No. KL 52 Q 1539 which was in his possession. On perusing the prosecution records placed before this court it is found that on 27/10/2024 at 19.30 hours at Thekkumuri, Pattambi, the rider who appeared to be minor was questioned as to his age and after confirming from him regarding the age, the present FIR was registered against the father of minor/RC owner of the vehicle. On a close perusal of the prosecution records, I find that as rightly pointed out by the accused herein no documents have been placed along with prosecution records so as to affirm the exact age of the juvenile. In the recent judgment of *Sharafudheen (Supra)* it was held by the Hon'ble

High Court that the offence under section 199A of the MV Act is *sui generis* and is an independent offence. The commission of an offence under the MV Act by the juvenile is an essential ingredient of section 199A of the MV Act, however, a finding regarding the commission of an offence under the MV Act by the juvenile as per section 17 or 18 of the JJ Act, is not a *sine qua non* for initiating proceedings against the guardian or owner of the motor vehicle under the said section. The final report in relation to the offence allegedly committed by the juvenile ought to be submitted before the Juvenile Justice Board at the earliest, preferably within two months of recording the information in the General Diary. The period of two months mentioned in Rule 10(6) of the Model Rules is only a directory provision and is not mandatory.

9. In the wake of this judgment, the court had sought report from the SHO regarding recording of information in the General Diary and also regarding the submission of Social Background Report of the child in Form No. 1 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016. On perusing the said report, I could not find neither any general diary information recorded nor any submission of social background report. It is pertinent to note that commission of the offence under MV Act by the juvenile is an essential ingredient of the section 199A of the MV Act and here no records are before me to conclude that an offence has been registered against the juvenile. Moreover no documentary records are placed by the prosecution to confirm the age of the minor. Hence in this backdrop, I find that the proceedings against the accused herein has to be dropped under section 262 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the accused is entitled for the discharge from the offence charged.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, this the 29th day of May, 2026.

Sd/-
Judicial Magistrate of First Class,
Pattambi.