

**PROCEEDINGS OF THE DISTRICT COLLECTOR & DISTRICT MAGISTRATE, THIRUVANANTHAPURAM**

**(Present: Dr. Dinesh Arora- IAS)**

**(Under Section 144 Cr.P.C)**

**No. S11.12624/11**

**Dated: 4.03.2011**

**Sub: Road Safety- Enforcement of School Transport Safety- orders issued.**

Read:

1. Proceedings of District Magistrate No. **No. A5.12624/11** under section 144 CrPC dated 23/02/11
2. Supreme Court Guidelines regarding School Bus / Transport on the WP(C) No. 9300/02, 939/96 & 95/97 M.C. Mehta Vs Union of India dated 16.12.1997
3. Report of the Magisterial Enquiry into the School van accident at Parvathi-Puthanar near Karikkakam
4. Report of ACP Shangumugham Letter no 469/ GL/ AC -11 received on 3.3.11.

**WHEREAS** it has been made to appear to me as per that a school van plunged into Paravathi Putthanar killing 6 students and one lady Aya on 17.02.2011 at 9.30 am. The school van was owned by the Little Heart Kinder Garden, Pettah bearing Registration no. KL-01-AS-4107. Prima facie the findings suggested it was a case involving violation of school transport rules, the school is a private unrecognized school, there was rash driving by an inexperienced driver, the vehicle was not meant for transporting students, was overcrowded and the road was next to canal without any protection walls.

**WHEREAS** it has been made to appear to me that the vehicle was not having any Educational Institutional Permit and was registered as private vehicle and the vehicle did not follow any of the Supreme Court Guidelines as per reference 2 regarding school bus/ transport, a magisterial enquiry was ordered as per reference 3 by the Deputy Collector & Executive Magistrate Ms. Sheeba George to ascertain:

- a) The circumstances which led to the accident
- b) Fixing responsibilities on the persons / institutions responsible for the criminal negligence and violation of rules / guidelines which led to the accident.
- c) What action has been taken/ can be taken under Motor Vehicles Act / IPC or any other relevant Acts against those responsible for this gruesome tragedy

**WHEREAS** it has been made to appear to me as per reference cited 3 that location of the accident spot is 100 meter away from the Karikkakom Bridge near Chakka bypass. There, the road is very narrow and straight having 3.5 mtr carriageway and 1 mtr wide shoulder on either side, the shoulder of the road depressed, the level of the road is equal to the level of the canal and there are no protection walls or any signal indicating the edge of the canal which had 20 feet depth. Moreover, the root of a tree which stands in the accident spot is protruded and projected on the road. .

**WHEREAS** as per reference 3, it is revealed that over speeding, of the vehicle, speaking on mobile while driving, rash and negligent driving and lack of experience of the driver of the van led to the accident. The legal age for securing driving license is 18 years and the driver of the van Sri Sumesh was inexperienced as his driving license was obtained on 31-7-2009 only and case has been registered against him under section 304 (II), 279, 337 IPC .

**WHEREAS** the school is a private unrecognized one kindergarten registered as a firm as per registration No. 283/10 dated 28-1-2010 under the partnership of Smt. Shylaja Premlal and her son Sri Anoop S Premlal. The van used for transporting school children was owned by Anoop S Premlal, the co-owner of the school and the registration certificate states that the vehicle will be used only for personal purpose. However, the van was used as school vehicle and exhibited the name and address of the school on the body of the van. Daily, the van used to make three trips of transportation which started from 7.30 am onwards. The accident occurred during the second trip of the vehicle. The van was not registered as school vehicle and the owner of the van, who is also the owner of the school had employed an inexperienced driver violating the Supreme Court Guidelines and violation of Motor Vehicles Act . The school has remained closed thereafter till date and no students are attending the school.

**WHEREAS** as per the reference 3, it has been made to appear to me that one Sri Kamaluddin, grandfather of one victim Master Jinan Azimuddin has recorded a statement before the Executive Magistrate that the van was is in over speed and the driver of the van Sri Sumesh always used to drive the vehicle in over speed and frequently used mobile phone while driving. Sri Kamaluddin also deposed that he had orally complained this matter to the school authorities about the driver, but they did not take any action. He also stated that the school authorities had informed him that the van had relevant documents to carry school children.

**WHEREAS I am convinced that the driver, the registered owner of the van and the school management authorities are responsible for the accident and** there is sufficient ground for proceeding under this section for immediate prevention of such incidents in future and speedy remedy and direction is likely to prevent or tend to prevent similar occurrence of School transport accident, I do hereby direct:

1) **You the Executive Engineer, Roads** are directed to provide protective railings/ embankments at the accident spot and in the vicinity and raise the shoulder of the road within period of 7 days to prevent reoccurrence of such incidents especially when Karikkakom Devi temple festival function going to start.

2) **You, the Tahsildar and Executive Magistrate, Thiruvanthapuram are directed to ensure that the school** Little Heart kindergarten functioning in a residential building under the ownership of Smt Shylaja Premlal and her son Anoop S Premlal in the survey number 50/1-2 of Pettah village having Forty students in LKG and 29 in UKG does not reopen without following mandatory guidelines and getting NOC / necessary clearances from the Motor Vehicle Department / Deputy Director Education and concurrence from the undersigned.

3) **You the Tahsildar and Executive Magistrates** are directed to conduct a safety audit of the dangerous road, curves, unprotected roads along canal/ ponds/ rivers in association with a committee consisting of Concerned circle Inspector of Police, Motor vehicle Inspector, concerned representative of PWD (Roads), concerned FRAT members and suggesting the requisite remedy like warnings, messages, signs or symbols, protection alongside roads etc. One copy of the safety audit will be submitted to Traffic Management Regulatory Committee of the Thiruvananthapuram Corporation, Municipalities and Panchayats and second copy to District Collector and Road Safety authority within three weeks of issue of this order.

The ACP Shangumugham and RTO Trivandrum are directed to complete their investigation and submit an action taken report at the earliest.

**Given under my hand and seal on the day of 4th of March 2011.**

**DISTRICT MAGISTRATE**

**THIRUVNANTHAPURAM**

To

1. The Commissioner of Police, Thiruvananthapuram City
2. Superintendent of Police, Thiruvananthapuram Rural
3. RTO Thiruvananthapuram / Attingal
4. The Deputy Director Education, Thiruvananthapuram
5. Executive engineer, PWD ( NH / Roads and Bridges)
6. Director NATPAC
7. DMO / DPM Thiruvananthapuram.
8. Tahsildar, Thiruvananthapuram/ Neyyattinkara/ Nedumangad/ Chiryinkizhu
9. The President, FRAT, Thiruvananthapuram