

**IN THE COURT ADDL. SPECIAL MOBILE MAGISTRATE (TRAFFIC).**  
**SRINAGAR.**

**Date of institution: 01.10.2021**

**Date of Order 30.11.2021**

**In the Case of:**

**UT of through Traffic Police, Srinagar  
Through APP. Ms. Nighat Maqbool  
V/s**

**1. Burhan**

**S/O Mehrajuddin Karnai  
R/O Dalgate. Srinagar**

**(Violator) Minor**

**2. Mehrajuddin Karnai S/O Abdul Salam  
Karnai. R/O Dalgate Srinagar**

**(Accused)**

**Through Adv. Gousia Gulzar**

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**CORAM: SHABIR AHMAD MALIK**

**JO CODE JK00247**

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**J U D G M E N T**

**1.** The instant challan came up for hearing today. Ms. Nighat Maqbool Assistant Public Prosecutor for UT Present. Accused along with counsel present. Perusal of the Challan reveals that the instant challan has been produced by the traffic police against the accused for offences U/s 207 M.V. Act. It has been also mentioned in the challan that the violator is 16 years, therefore a Minor.

**2.** Since the violator is a minor, as such the application for release of vehicle has been filed by the accused father of the minor/violator and the same has been released in his favour, as

the accused father of the minor claimed to be the owner of the vehicle and to that extent filed an undertaking/superdnama before this court.

3. It is apt to mention here that according to the Section 199A Motor Vehicle Act 1988, when the offence under the Act is committed by a juvenile, the guardian of such juvenile or the owner of the motor vehicle shall be deemed to be guilty and shall be liable to be proceeded against and punished accordingly.

It shall be profitable to reproduce the relevant provisions of law;

**Section 199A. Offences by juveniles.--(1) Where an offence under this Act has been committed by a juvenile, the guardian of such 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:**

***Provided that nothing in this sub-section shall render such guardian or owner liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.***

***Explanation.-- For the purposes of this section, the Court shall presume that the use of the motor vehicle by the juvenile was with the consent of the guardian of such juvenile or the owner of the motor vehicle, as the case may be.***

***(2) In addition to the penalty under sub-section (1), such***

***guardian or owner shall be punishable with imprisonment for a term which may extend to three years and with a fine of twenty-five thousand rupees.***

***(3) The provisions of sub-section (1) and sub-section (2) shall not apply to such guardian or owner if the juvenile committing the offence had been granted a learner's licence under section 8 or a driving licence and was operating a motor vehicle which such juvenile was licensed to operate.***

***(4) Where an offence under this Act has been committed by a juvenile, the registration of the motor vehicle used in the commission of the offence shall be cancelled for a period of twelve months.***

***(5) Where an offence under this Act has been committed by a juvenile, then, notwithstanding section 4 or section 7, such juvenile shall not be eligible to be granted a driving licence under section 9 or a learner's licence under section 8 until such juvenile has attained the age of twenty-five years.***

***(6) Where an offence under this Act has been committed by a juvenile, then such juvenile shall be punishable with such fines as provided in the Act while any custodial sentence may be modified as per the provisions of the Juvenile Justice Act, 2000 (56 of 2000).]***

From the perusal of Section 199A (supra) it transpires that where an offence under this Act has been committed by a

juvenile, the guardian of such 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, it has been further provided that, In addition to the penalty under sub-section (1), such guardian or owner shall be punishable with imprisonment for a term which may extend to three years and with a fine of twenty-five thousand rupees.

4. Since Section 199A makes the guardian of the juvenile or the owner of the motor vehicle liable for the contraventions , as such father/guardian of the juvenile was directed to appear before this court, accordingly father of the juvenile appeared before this court and his statement has been recorded. The accused father pleaded guilty and did not claim trial. The statement of the accused has been reduced into writing and is made part of the record. On consideration of the statement of accused, nature of offence and satisfaction of this Court as to the voluntariness of plea of guilty of accused person. It is evident that the accused does not want to avail the opportunity to defend himself against the offence mentioned above, despite sufficient opportunity.

Since, the accused has pleaded guilty and does not want to avail the opportunity to defend himself, as such there is no need to proceed further with the trial.

5. Therefore, keeping in view the above mentioned facts and circumstances and the statement of the accused person wherein he pleaded guilty, the accused person is accordingly convicted for the commission of offence under section 199A M.V Act and I propose to sentence him to **three (3) years**

***simple imprisonment and twenty-five thousand rupees (25,000) of fine.***

6. Since the offence does not involve any moral turpitude and the violator has not been previously convicted and having regard to his age and antecedents the purpose of justice shall be served if the case is considered under section 360 Cr.P.C and accused is given benefit of probation. Therefore, considering the above mentioned facts and circumstances the accused is directed to execute a bond to the tune of rupees 30,000 for keeping peace and good behavior for the period of One (1) year and in violation of any condition of bond during that period of One (1) year the accused shall receive the proposed sentence. The documents (if any) shall be released in favour of the rightful claimant.
7. This judgment shall not be read as a disqualification for any public or private employment or for the purpose of verification including verification or the passport or any other document.
8. Before parting, I would like to place on record that according to government data 1.2 lakh deaths have been reported due to negligence related to road accidents in 2020, with 328 people losing their lives every day on an average. Worth mentioning that 3.92 lakh lives are lost due to negligent driving / bypassing traffic rules in last 3 years according to the NCRB's annual 'Crime India' report of 2020. These numbers are alarming and it's high time that people take traffic laws very seriously. We as a society must realize that all these lives can be saved if traffic rules are followed.
9. I acknowledge that there are issues in implementation of these laws, for example; we don't have sufficient Traffic Police to tackle the violators, but we don't need Traffic Police to tell us that our lives are precious or follow the rules, every person

must understand the importance of traffic rules, the importance of wearing a seat belt, the importance of wearing a helmet/headgear, the importance of not using the mobile phone while driving etc; this is very basic and must appeal to us all.

**10.** Coming back to the violation by a juvenile, underage driving is one of the major causes of traffic snarls and causes danger to other motorists and pedestrians on the roads. Minors are often found driving bikes, Scooties etc; they hide behind cars or heavy vehicles to escape the police at signals and if Police chase them, they may fall or skid, that can result in injuries or even death.

**11.** It is important for us to realize that we all are responsible as a society. Parents/guardians are responsible for providing vehicle to their minor children, Principals/Teachers/in charge of education institutes/coaching centers are responsible for allowing minor students to use the vehicle. It is observed many times that students driving vehicle, riding bikes in and around schools or crowded places resulting accidents / loss of lives. It is the first and foremost duty of parents not to provide their minor children any vehicle unless they attain majority and have license to drive the vehicle. It is also the duty of Principals/Teachers not to allow the minor students to drive the vehicles and impart education regarding these issues.

**12.** Considering what has been discussed above I deem it proper to communicate a copy of this judgment with a copy of Motor Vehicle Act, to the Commissioner Secretary School Education U.T of J&K, with a request to circulate it in all the schools (government or private) and direct them to educate the students as well as their parents/guardians regarding these issues. I would also request the Commissioner secretary School Education to issue directives to all the schools and

frame some policy like “No Vehicle policy for Minors” in education institutes. So as to contribute to this noble cause that may save many lives. As by allowing minor to drive we are only producing victims and violators and not responsible citizens.

**13.** The challan is accordingly disposed of and shall be consigned to records after its due completion.

**Announced  
30.11.2021**

**Addl. Special Mobile Magistrate  
(Traffic) Srinagar**