2025:KER:60125

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

TUESDAY, THE 29TH DAY OF JULY 2025 / 7TH SRAVANA, 1947

CRL.MC NO. 9656 OF 2023

CRIME NO.10/2021 OF CRIME BRANCH, ERNAKULAM, Ernakulam

PETITIONER:

DR.VINU V GOPAL,
AGED 44 YEARS
S/O. G.VENUGOPAL, HOUSE NO.15/517G,
GOWREESAPAADHAM ,AMALAGIRI P.O., KOTTAYAM, PIN - 686561

BY ADVS.
SRI.J.VISHNU
SMT.ANU BALAKRISHNAN NAMBIAR

RESPONDENTS:

STATE OF KERALA,
THROUGH THE THE DEPUTY SUPERINTENDENT OF POLICE,CRIME BRANCH CENTRAL UNIT -II, OFFICE OF THE SUPERINTENDENT OF POLICE, CRIME BRANCH CENTRAL UNIT -II, RIPUNITHURA, ERNAKULAM, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

OTHER PRESENT:

SMT. PUSHPALATHA. M.K, SR.PP.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 21.07.2025, THE COURT ON 29.07.2025 PASSED THE FOLLOWING:

2025:KER:60125

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V.G.ARUN, J

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Crl.M.C.No.9656 of 2023

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Dated this the 29th day of July, 2025

ORDER

Petitioner is the 1st accused in Crime No.10 of 2021 of the Crime Branch, CU-II Unit, Ernakulam registered for the offence punishable under Section 304A of IPC. The case originated on the death of a patient named Shafiq at the Government Medical College Hospital, Kottayam. The petitioner was the night duty on-call Medical Officer of the Neuro Surgery Department when Shafiq was admitted in the Medical College Hospital. The essential facts are as under;

Shafiq, a remand prisoner, suffered seizures on 11.01.2021 while undergoing judicial custody in the Sub Jail, Kakkanad. The next day, *i.e*. 12.01.2021, at about 12:27 pm, Shafiq suffered another seizure and fell down, resulting in

injuries to his head. He was then taken to the Taluk Hospital, Tripunithura and from there to the General Hospital, Ernakulam, by about 08:12 pm, on 12.01.2021. A CT-Scan conducted at the General Hospital revealed sub-dural haemorrhage and temporal bleeding in Shafiq's brain, making in-patient treatment unavoidable. However, as beds were not available at the General Hospital, Shafiq was referred to the Government Medical College Hospital, Kottayam. He was then brought to the Medicine Department Casualty in the Medical College at 12:40 am on 13.01.2021. From the Medicine Casualty, the Duty Medical Officer referred Shafiq to the General Surgery Department for further examination and thereafter, to the Orthopaedics Department since the patient had complained of pain in his hands. After consultation by the General Surgeon and the Orthopaedics Department, Shafiq was admitted to the Medicine Department at 02:31 am on 13.01.2021. Thereafter, at about 4 am, Shafiq suffered another seizure and by 04:50 am, he was referred for Neurosurgery

consultation. Immediately, the Senior Resident on duty in the Neurosurgery Department examined the patient and intimated the petitioner about the patient's condition over phone at 05:20 am, he being the on-call Medical Officer. After discussing with the Senior Resident, petitioner advised for a repeat CT-scan and pre-operative investigations in order to be prepared for emergency surgery after reviewing the scan report. The scan report was received by about 07:45 am on 13.01.2021. Thereupon, the Senior Resident on day duty informed the petitioner that the report showed brain stem contusion, in addition to increase in size of the previous haemorrhage. The petitioner then advised emergency surgery and the patient was posted for emergency decompressive craniectomy. As the petitioner's duty ended at 8 am on 13.01.2021, Dr.Girish K.M. (2nd accused) assumed charge as the on-call Duty Medical Officer for the next 24 hours. Although petitioner had advised emergency surgery for Shafiq, it could not be conducted as another patient was undergoing surgery in the only available

operation theatre and the surgery of yet another patient had already been scheduled from 01:10 pm onwards. Unfortunately, Shafiq breathed his last at 03.25 pm on 13.01.2021 while waiting for the surgery. Pursuant to Shafiq's death, an FIR was registered at the Info Park Police Station, Ernakulam under Section 174 Cr.P.C. When news about Shafiq's death came out, there was wide spread protest alleging that death was due to custodial torture. Hence, the investigation of the case was entrusted with the Crime Branch. Thereupon, the investigating officer referred the case to the Expert Panel constituted to investigate complaints against Doctors for acts of commission or omission in the medical care of patients. Accordingly, the Expert Panel conducted enquiry and submitted Annexure A18 report, opining that Shafiq had not received the reasonable standard of care while undergoing treatment in the Government Medical College Hospital, Kottayam. This resulted in the petitioner and Dr.Girish K.M being arraigned as accused, alleging commission of the offence

under Section 304A of the IPC.

2. Advocate Vishnu Jayapalan, appearing for the petitioner contended that, even if the prosecution allegations are accepted in their entirety the offence under Section 304A will not be attracted. In support of his argument, the learned counsel made the following submissions;

Shafiq had his first seizure on 11.01.2021, but was not given any immediate medical assistance. The second seizure occurred at 12:27 pm on 12.01.2021, but Shafiq was taken to the General Hospital only by 08:12 pm. After conducting a CT scan at the General Hospital, Shafiq was referred to the Medical College Hospital, Kottayam and reached the Medical College only by 12:40 am on 13.01.2021, almost 12 hours after the first seizure. The golden hour, as far as a person with grave injury/seizure is concerned, is six hours. The inordinate delay in providing proper treatment and medication had worsened the patient's condition by the time he was brought to the Medical College Hospital. The patient was initially brought

to the Medicine Department Casualty of the Medical College and was referred to the General Surgery and Orthopaedics Departments for consultation. Shafiq was referred to the Neurosurgery Department only at 04:50 am, after he suffered another seizure. The patient was thereupon examined by the Senior Residents, who are authorised to provide all kinds of treatment including surgery, as per Annexure A7 Government Order. The petitioner was informed about Shafiq's condition only at 05:20 am on 13.01.2021. By that time, 18 hours had elapsed after the first CT scan. Therefore the petitioner directed to conduct another CT scan to ascertain the present condition, since surgery could not be done based on a CT scan conducted when the patient was in a far better condition. The CT scan report was received only at 07:45 am on 13.01.2021 and on being informed about the result, the petitioner advised immediate emergency surgery. The surgery could not be done due to non-availability of operation theatre. Unfortunately, the patient died while waiting his turn for the surgery. Being the

on-call Medical Officer, the petitioner had given timely advice based on the information received over phone. It being peak pandemic period, the Government advisories prevented the petitioner from examining the patient physically for the purpose of giving the treatment advice.

3. Referring to the Expert Panel Report, it is pointed out that the panel had only opined that the patient had not received reasonable standard of care while undergoing treatment at the Government Medical College. Being so, arraying the petitioner as an accused on the premise that he was the on-call Medical Officer is unsustainable. Reliance is placed on the decision in ***Jacob Mathew v. State of Punjab and Another*** [(2005) 6 SCC 1] to contend that, for negligence to amount to an offence, the element of *mens rea* must be shown and to prosecute a medical practitioner for the offence under Section 304A of IPC, there must be gross negligence. Finally it is submitted that, in the appeal filed by the petitioner against the Expert Panel Report, Annexure A23 opinion has been rendered by the State

Level Apex Expert Committee, unequivocally holding that there was no gross and culpable negligence from the part of the Doctors at the Medical College Hospital in giving treatment to Shafiq. It is hence contended that further prosecution of the petitioner is nothing but an abuse of process of court.

4. Learned Public Prosecutor submitted that the matter is still under investigation and the investigating officer is not bound by the findings of the Apex Body. Therefore, if sufficient materials are gathered in the investigation to prove the complicity of the petitioner, he can be prosecuted for the alleged offence. In such circumstances intervention at this stage will be inappropriate.

5. While dealing with medical negligence cases, it is essential for the investigators and the courts to bear in mind the difference between negligence and medical negligence. Negligence is an omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing

of something which a prudent and reasonable man would not do. Medical negligence occurs when a healthcare professional breaches his duty of care, causing harm to a patient. In this context it will be worthwhile to read the following statement in the **Halsbury's Laws of England** [Ed. : 4th Edn., Vol. 30, para 35], about the degree of skill and care required by a medical practitioner;

> "35. *Degree of skill and care required.*—The practitioner must bring to his task a reasonable degree of skill and knowledge, and must exercise a reasonable degree of care. Neither the very highest nor a very low degree of care and competence, judged in the light of the particular circumstances of each case, is what the law requires, and *a person is not liable in negligence because someone else of greater skill and knowledge would have prescribed different treatment or operated in a different way*; nor is he guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art, *even though a body of adverse opinion also existed among medical men".*

6. The below extracted test by McNair J. in **Bolam v. Friern Hospital Management Committee** [1957 (1) WLR 582] is

accepted as a standard for deciding whether the alleged omission or commission amounts to medical negligence;

> " But where you get a situation which involves the use of some special skill or competence, then the test as to whether there has been negligence or not is not the test of the man on the top of a Clapham omnibus, because he has not got this special skill. The test is the standard of the ordinary skilled man exercising and professing to have that special skill. A man need not possess the highest expert skill; it is well established law that it is sufficient if he exercises the ordinary skill of an ordinary competent man exercising that particular art."

7. The authoritative pronouncements on medical negligence by the Supreme Court of India in recent times starts with **Dr.Suresh Gupta v. Govt. of NCT of Delhi and Another**, [(2004) 6 SCC 422]**,** the relevant portion of which is extracted below for easy reference;

> "**20.** For fixing criminal liability on a doctor or surgeon, the standard of negligence required to be proved should be so high as can be described as "gross negligence" or "recklessness". It is not merely lack of necessary care, attention and skill. The decision of the House of Lords in *R.* v. *Adomako* [(1994) 3 All ER 79 (HL)] relied upon on behalf of the doctor elucidates the said legal position and contains the following observations:
>
> "Thus a doctor cannot be held criminally responsible for patient's

death unless his negligence or incompetence showed such disregard for life and safety of his patient as to amount to a crime against the State."

xxxx xxxx

26. To convict, therefore, a doctor, the prosecution has to come out with a case of high degree of negligence on the part of the doctor. Mere lack of proper care, precaution and attention or inadvertence might create civil liability but not a criminal one. The courts have, therefore, always insisted in the case of alleged criminal offence against the doctor causing death of his patient during treatment, that the act complained against the doctor must show negligence or rashness of such a higher degree as to indicate a mental state which can be described as totally apathetic towards the patient. Such gross negligence alone is punishable".

8. In **Jacob Mathew** (supra), after elaborate survey of precedents, the Supreme Court affirmed the findings in **Dr.Suresh Gupta** (supra), and summed up its conclusions at paragraph 48 of the judgment, as under;

" **48**.We sum up our conclusions as under:

(1) Negligence is the breach of a duty caused by omission to do something which a reasonable man guided by those considerations which ordinarily regulate the conduct of human

affairs would do, or doing something which a prudent and reasonable man would not do. The definition of negligence as given in *Law of Torts*, Ratanlal & Dhirajlal (edited by Justice G.P. Singh), referred to hereinabove, holds good. Negligence becomes actionable on account of injury resulting from the act or omission amounting to negligence attributable to the person sued. The essential components of negligence are three: "duty", "breach" and "resulting damage".

(2) Negligence in the context of the medical profession necessarily calls for a treatment with a difference. To infer rashness or negligence on the part of a professional, in particular a doctor, additional considerations apply. A case of occupational negligence is different from one of professional negligence. A simple lack of care, an error of judgment or an accident, is not proof of negligence on the part of a medical professional. So long as a doctor follows a practice acceptable to the medical profession of that day, he cannot be held liable for negligence merely because a better alternative course or method of treatment was also available or simply because a more skilled doctor would not have chosen to follow or resort to that practice or procedure which the accused followed. When it comes to the failure of taking precautions, what has to be seen is whether those precautions were taken which the ordinary experience of men has found to be sufficient; a failure to use special or extraordinary precautions which might have

prevented the particular happening cannot be the standard for judging the alleged negligence. So also, the standard of care, while assessing the practice as adopted, is judged in the light of knowledge available at the time of the incident, and not at the date of trial. Similarly, when the charge of negligence arises out of failure to use some particular equipment, the charge would fail if the equipment was not generally available at that particular time (that is, the time of the incident) at which it is suggested it should have been used.

(3) A professional may be held liable for negligence on one of the two findings: either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess. The standard to be applied for judging, whether the person charged has been negligent or not, would be that of an ordinary competent person exercising ordinary skill in that profession. It is not possible for every professional to possess the highest level of expertise or skills in that branch which he practices. A highly skilled professional may be possessed of better qualities, but that cannot be made the basis or the yardstick for judging the performance of the professional proceeded against on indictment of negligence.

(4) The test for determining medical negligence as laid down in *Bolam case* [(1957) 1 WLR 582 : (1957) 2 All ER 118 (QBD)] , WLR at p. 586 [[**Ed.**: Also at All ER p. 121 D-F and set out in

para 19, p. 19 herein.]] holds good in its applicability in India.

(5) The jurisprudential concept of negligence differs in civil and criminal law. What may be negligence in civil law may not necessarily be negligence in criminal law. For negligence to amount to an offence, the element of *mens rea* must be shown to exist. For an act to amount to criminal negligence, the degree of negligence should be much higher i.e. gross or of a very high degree. Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for prosecution.

(6) The word "gross" has not been used in Section 304-A IPC, yet it is settled that in criminal law negligence or recklessness, to be so held, must be of such a high degree as to be "gross". The expression "rash or negligent act" as occurring in Section 304-A IPC has to be read as qualified by the word "grossly".

(7) To prosecute a medical professional for negligence under criminal law it must be shown that the accused did something or failed to do something which in the given facts and circumstances no medical professional in his ordinary senses and prudence would have done or failed to do. The hazard taken by the accused doctor should be of such a nature that the injury which resulted was most likely imminent.

(8) *Res ipsa loquitur* is only a rule of evidence and operates in the domain of civil law, specially in cases of torts and helps in determining the onus of proof in actions relating to negligence. It

> cannot be pressed in service for determining *per se* the liability for negligence within the domain of criminal law. *Res ipsa loquitur* has, if at all, a limited application in trial on a charge of criminal negligence". (underline supplied)

9. The legal position is reiterated in **Martin F. D'Souza v. Mohd. Ishfaq**, [(2009) 3 SCC 1] by holding that, in order to fasten liability in criminal proceedings, particularly Section 304A IPC, the degree of negligence has to be higher than the negligence which is enough to fasten liability in civil proceedings. While for civil liability it may be enough for the complainant to prove that the doctor did not exercise reasonable care in accordance with the principles mentioned above, for convicting a doctor in a criminal case, it must also be proved that this negligence was gross, amounting to recklessness.

10. Again in **Kusum Sharma and Others v. Batra Hospital and Medical Research Centre and Others** [(2010) 3 SCC 480], the Apex Court culled out the principles on medical negligence emerging from various decisions and declared that

as long as the doctors have performed their duties and exercised an ordinary degree of professional skill and competence, they cannot be held guilty of medical negligence.

11. Later, in **Arun Kumar Manglik v. Chirayu Health and Medicare Private Limited and Another** [(2019) 7 SCC 401], the Supreme Court struck a note of caution by pointing out that the standard of care as enunciated in **Bolam** case (supra) must evolve in consonance with its subsequent interpretation by the English and Indian courts. The Court also observed that it is bound by the standard laid down in **Jacob Mathew**, that the course adopted by the medical professional should be consistent with the "general and approved practice".

12. The law is thus well laid down that a medical practitioner can be prosecuted for medical negligence only if the procedure/treatment adopted by him is contrary to the general and approved practice. Moreover, for attracting the offence under Section 304A, the doctor should have committed a rash or negligent act. Here it is essential to note that, as far

2025:KER:60125

as rash acts are concerned, the criminality lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence on the other hand is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury, either to the public generally or to an individual in particular which, having regard to all the circumstances out of which the charge has arisen, it was the imperative duty of the accused to have adopted. For attracting the offence under Section 304A, the death must also be the direct or proximate result of the rash or negligent act of the accused.

13. In the petitioner's case, the allegation is regarding the failure to provide timely treatment. Indisputably, there was delay in bringing the patient to the Medical College Hospital after the first seizure. Even after admitting the patient, petitioner was informed about his condition only by 05:20 am on 13.01.2021. Immediately the petitioner directed to conduct CT scan, since no decision could be taken based on the earlier

2025:KER:60125

CT scan, which was conducted many hours back and when the patient was in a much better condition. The CT scan report was received at 07:45 am and the petitioner advised for immediate surgery. The petitioner cannot also be attributed with gross negligence for his failure to examine the patient physically since the Covid related SoPs prevented such examination. Further, the petitioner's duty time ended by 8 am and the delay in conducting the surgery occurred due to non-availability of operation theatre. Pertinent in this context to note that the Expert Panel had only opined that the patient had not received reasonable standard of care while under treatment in Government Medical College, Kottayam, without naming any particular doctor. Even that opinion of the Expert Panel has lost its relevance in view of the conclusive unanimous opinion of the State Level Apex Body that there was no gross and culpable negligence from the part of the treating doctors for giving treatment to Shafiq.

2025:KER:60125

14. In the light of the above undisputed facts, and in view of the law laid down by the Apex Court, it can unhesitatingly be held that the prosecution of the petitioner for the offence under Section 304A amounts to an abuse of process of court. As held by the Supreme Court in **State of Haryana and Others v. Bhajan Lal and Others** [1992 SCC (Cri) 426], an FIR is liable to be quashed when the allegations, even if accepted in their entirety, do not make out the ingredients for constituting the offence alleged against the accused.

For the aforementioned reasons, the Crl.M.C is allowed. Annexure A1 FIR and all further proceedings against the petitioner in Crime No.10 of 2021 of the Crime Branch, CU-II Unit, Ernakulam are quashed.

sd/-

V.G.ARUN, JUDGE

sj

2025:KER:60125

APPENDIX OF CRL.MC 9656/2023

PETITIONER ANNEXURES

Annexure A1	**A TRUE COPY OF THE FIR NO. 10/2021 OF CRIME BRANCH, CU-II UNIT, ERNAKULAM, DATED 23.03.2023**
Annexure A2	**A TRUE COPY OF THE RELEVANT PORTION OF THE EMERGENCY REGISTRATION CARD OF THE PATIENT AT GENERAL HOSPITAL ERNAKULAM DATED 12.01.2021**
Annexure A3	**A TRUE COPY OF THE CASUALTY REFERRAL RECORDS AT GOVT. MEDICAL COLLEGE HOSPITAL KOTTAYAM, DATED 13.01.2021**
Annexure A4	**A TRUE COPY OF THE OP TICKET ISSUED BY THE MEDICINE DEPARTMENT TO GENERAL SURGERY DEPARTMENT, KOTTAYAM GOVT. MEDICAL COLLEGE DATED 13.01.2021**
Annexure A5	**A TRUE COPY OF THE OP TICKET ISSUED BY THE MEDICINE DEPARTMENT TO ORTHOPEDICS DEPARTMENT, KOTTAYAM GOVT. MEDICAL COLLEGE DATED 13.01.2021**
Annexure A6	**A TRUE COPY OF THE RELEVANT PORTION OF THE NURSES RECORD AT GOVT. MEDICAL COLLEGE HOSPITAL KOTTAYAM, DATED 13.01.2021**
Annexure A7	**A TRUE COPY OF G.O. (RT).NO.3097/2018/H&FWD DATED 10.10.2018 ISSUED BY THE HEALTH DEPARTMENT, GOVT. OF KERALA**
Annexure A8	**A TRUE COPY OF COVID GUIDELINES FOR HUMAN RESOURCE MANAGEMENT IN COVID HOSPITALS NO 31/F2/2020/HEALTH, DATED 30.03.2020**
Annexure A9	**A TRUE COPY OF THE DUTY ROSTER AT THE MEDICAL COLLEGE HOSPITAL, KOTTAYAM, AS REVEALED FROM COMMUNICATION FROM DR.JYOTHISH S., ASSOCIATE PROFESSOR,**

	SURGERY (HEAD OF THE DEPARTMENT IN CHARGE), TO THE SUPERINTENDENT, MEDICAL COLLEGE HOSPITAL, KOTTAYAM
Annexure A10	**A TRUE COPY OF THE RELEVANT PORTION OF THE CASE SHEET OF THE PATIENT AT GOVT. MEDICAL COLLEGE HOSPITAL KOTTAYAM, DATED 13.01.2021**
Annexure A11	**A TRUE COPY OF THE REPORT IN ONLINE EDITION OF MANORAMA NEWS WITH REGARD TO THE DEATH OF THE PATIENT ALLEGING CUSTODIAL TORTURE, DATED 14.01.2021**
Annexure A12	**A TRUE COPY OF THE REPORT IN ONLINE EDITION OF TIMES OF INDIA (MALAYALAM), DATED 14.01.2021**
Annexure A13	**A TRUE COPY OF THE REPORT IN ONLINE EDITION OF MANORAMA NEWS, DATED 20.01.2021**
Annexure A14	**A TRUE COPY OF THE SECTION 41A NOTICE ISSUED TO THE PETITIONER DATED 10.08.2023**
Annexure A15	**A TRUE COPY OF CIRCULAR MEMORANDUM NO.73304/SSB3/2007/HOME DATED 16.06.2008, ISSUED BY THE GOVERNMENT OF KERALA**
Annexure A16	**A TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE INVESTIGATION OFFICER IN WPC.NO.29587/2023 PRESENTED ON 06.10.2023**
Annexure A17	**A TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC.NO.29587/2023 DATED 13.10.2023**
Annexure A18	**A TRUE COPY OF THE REPORT OF THE EXPERT PANEL COMMITTEE REPORT DATED 22.06.2023**
Annexure A19	**A TRUE COPY OF THE RELEVANT PORTION OF THE STANDARD TREATMENT GUIDELINES FOR TREATMENT OF SEVERE BRAIN TRAUMATIC INJURIES ISSUED BY THE DEPT. OF HEALTH AND FAMILY WELFARE, GOVT. OF KERALA**

Annexure A20	**A TRUE COPY OF THE COMMUNICATION SENT TO THE PETITIONER BY THE PUBLIC INFORMATION OFFICER, DIRECTORATE OF MEDICAL EDUCATION, DATED 12.02.2024**
Annexure A21	**A TRUE COPY OF THE REPORT SUBMITTED BEFORE THE DME BY THE JOINT DIRECTOR OF MEDICAL EDUCATION ALONG WITH FORWARDING LETTER DATED 08.01.2024**
Annexure A22	**A TRUE COPY OF THE REPORT SUBMITTED BY THE NEUROLOGICAL SOCIETY OF INDIA**
Annexure A23	**A TRUE COPY OF THE OPINION OF THE APEX BODY ON APPEALS FILED BY DR.VINU V. GOPAL NEURO SURGEON, GOVT. MEDICAL COLLEGE HOSPITAL, KOTTAYAM AGAINST THE OPINION OF KOTTAYAM DISTRICT LEVEL EXPERT PANEL NO. EV4-2152/2024/DHS**
Annexure A24	**A TRUE COPY OF THE REPORT SUBMITTED BY THE INVESTIGATIVE OFFICER BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT, KAKKANAD,**
Annexure A25	**A TRUE COPY OF THE DISCHARGE SUMMARY OF THE PATIENT DATED 13.01.2021**
Annexure A26	**A TRUE COPY OF THE OPERATION REGISTER AT THE MCH, KOTTAYAM, OBTAINED THROUGH RTI**
Annexure A27	**A TRUE COPY OF THE RTI REPLY TO THE NUMBER OF BEDS AND VENTILATORS AVAILABLE ON 13.01.2021**
Annexure A28	**A TRUE COPY OF THE RTI REPLY DATED 17.11.2023**