

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Crl.MC.No. 1864 of 2015 ()

AGAINST THE ORDER IN CRRP 17/2015 of DISTRICT & SESSIONS
COURT,KOZHIKODE

AGAINST CMP 785/2015 of J.M.F.C.,NADAPURAM
CRIME NO. 62/2015 OF NADAPURAM POLICE STATION , KOZHIKODE

PETITIONER/REVISION PETITIONER/ACCUSED:

ASHRAF AGED 43 YEARS
S/O.KUNHABDULLA, KOTTAKKOOL HOUSE, PERUMUNDASSERI
KUMMAMKODE, NADAPURAM, KOZHIKODE DIST.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENT(S)/STATE & COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
2. THE STATION HOUSE OFFICER
NADAPURAM POLICE STATION, POST NADAPURAM
KOZHIKODE DISTRICT

R1,R2 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
31-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1864 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1:THE TRUE COPY OF THE FIR IN CRIME NO.62/2015 OF
NADAPURAM POLICE STATION DATED 15.1.2015

ANNEXURE A2:THE TRUE COPY OF CMP NO.785/2015 ON THE FILE OF JFCM
NADAPURAM DATED 02.02.2015

ANNEXURE A3:THE TRUE COPY OF THE ORDER IN CMP NO.785/2015 DATED
04.02.2015 OF JFCM NADAPURAM

ANNEXURE A4:THE TRUE COPY OF THE CRL.RP.NO.17/2015 ON THE FILE OF THE
DISTRICT AND SESSIONS COURT, KOZHIKODE DATED 09.02.2015

ANNEXURE A5:THE CERTIFIED COPY OF THE ORDER IN CRL.RP.NO.17/2015
DATED 28.02.2015 OF THE SESSIONS COURT, KOZHIKODE

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1864 of 2015**  
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Dated this the 31st March, 2015

ORDER

The petitioner herein obtained a passport from the Regional Passport Office, Thiruvananthapuram in June 2009 by showing some address in the Thiruvananthapuram District. He is actually a resident of Nadapuram in Kozhikode District. Subsequently, he obtained another passport from the Regional Passport Office, Kozhikode by showing his correct residential address. On the basis of some reliable information that the petitioner has two passports, the Police conducted a search in the house of the petitioner on 15.1.2015 and seized the two passports. A crime was registered against him under Section 10 (3) (b) read with Section 12 (b) of the Passport Act. On verification, the police found that the first passport was in fact obtained by the petitioner by producing some false documents. But as regards the second passport, the police does not have any doubt presently. It was obtained by showing the correct address and without producing any

false document. The petitioner is a person having some business activities in U.A.E. He has some employees under him working there and he wants to go abroad for his business purposes. He made an application before the learned Magistrate having jurisdiction under Section 451 Cr.P.C for interim custody of the first passport obtained by him from the Regional Passport Office, Thiruvananthapuram. The learned Magistrate disallowed the request. The petitioner preferred a revision before the Court of Session, Kozhikode against the said order as Crl.R.P.17 of 2015. The learned Sessions Judge concurred with the findings of the learned Magistrate, and accordingly dismissed the revision petition. The petitioner is now before this Court under Section 482 of the Code of Criminal Procedure, being aggrieved by the orders of the courts below, and he seeks a direction from this Court to release his passport. What he requires is the first passport obtained from the Regional Passport Office, Thiruvananthapuram.

2. On hearing both sides, and on a perusal of the police report, I find that presently the police has no dispute or doubt regarding the passport obtained by the petitioner

from the Regional Passport Office, Kozhikode by showing the correct residential address and other details, and without producing any false document. But the first passport was allegedly obtained by producing some false documents. It is submitted that appropriate steps will have to be taken by the competent authority to impound the two passports. As regards the first passport, such a course is possible, if it was obtained by suppression of facts or by producing some false documents. As regards the second passport also, such a procedure is possible, because he obtained the second passport without surrendering the first one, and by suppressing the first passport. Till the passport is impounded under the law, the second passport, obtained by the petitioner without suppression of facts and by furnishing his correct address and other details, will have validity. In the present circumstances where his concern is the employees working under him abroad, he can be permitted to go abroad and come back within a reasonable time. Further orders regarding passport, or whether it could be again released to him for travel purposes etc, will have to be decided by the trial court, subject to the steps taken by the

authorities for impounding the passport. It is submitted by the learned Public Prosecutor that both the passports are liable to be impounded. Anyway, in the present circumstance where the second passport was obtained legally, however, without surrendering the first one, the petitioner can be permitted to go abroad by using the second passport for a reasonable period. For the said purpose, he can make proper application before the learned Magistrate. The present application is only for the first passport. The said passport cannot be released to him in view of the definite allegation that it was obtained by him by producing some false documents. The said passport is definitely liable to be impounded.

In the result, this Crl.M.C is disposed of as follows:

(a) The petitioner's request to release the first passport obtained from the Regional Passport Office, Thiruvananthapuram with No.H 3911006 will stand disallowed.

(b) The petitioner can be permitted to go abroad for a period of ten months for his business purposes by using the Passport No.K 6239572 obtained from the Passport Office,

Kozhikode legally. The period of ten months will start from the date on which the passport is released.

© The petitioner can make proper application before the learned Magistrate with appropriate prayers regarding the second passport, as permitted by this Court.

(d) The petitioner will have to surrender the second passport released to him from the court below on the eve of expiry of the period of ten months granted by this Court.

(e) The learned Magistrate will release the Passport No.K.6239572 to the petitioner on application, on appropriate conditions including security deposit.

(f) The question of releasing the passport further, after the expiry of ten months for travel purpose or otherwise, will be decided by the learned Magistrate, subject to the proceedings initiated by the passport authorities, if any, to impound the passport.

**Sd/-
P.UBAID
JUDGE**

ma /True copy/ P.S to Judge