

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

Crl.MC.No. 2445 of 2015 ()

CMP.NO. 7742/2014 IN CP.NO.300/2010 OF JUDICIAL FIRST CLASS MAGISTATE
COURT-I, KOTTARAKKARA
CRIME NO. 385/2010 OF PUTHOOR POLICE STATION , KOLLAM DISTRICT

PETITIONER :

SADASIVAN, S/O.GANGADHARAN, AGED 43 YEARS,
PALLIYIL PADINJARE VEEDU,KULAKKADA P.O,
KOTTARAKARA, KOLLAM DISTRICT.

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENT(S)/STATE :

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
 2. STATION HOUSE OFFICER,
PUTHOOR POLICE STATION, KOLLAM DISTRICT.

*ADDL.R3 IMPEADED

*ADDL.R3: REGIONAL PASSPORT OFFICER,
SNSM BUILDING, KARALKADA JUNCTION,
PETTAH.P.O., THIRUVANANTHAPURAM-695 024

*ADDL.R3 IS IMPEADED AS PER ORDER DATED 23/07/2015 IN
CRL.M.A.NO.7110/2015

R1 & R2 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN
ADDL.R3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

sts

Crl.MC.No. 2445 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX 1: THE TRUE COPY OF THE LETTER DATED 13.08.2014 RECEIVED FROM
THE REGIONAL PASSPORT OFFICE, TRIVANDRUM.**

**ANNEX 2: CERTIFIED COPY OF THE ORDER DATED 2.12.2014 IN
CRL.M.P.NO.7742/2014 IN CP.NO.300/2010**

ANNEX 3: NIL

**ANNEX 4: TRUE ACCUSED COPY OF THE CHARGE SHEET ISSUED TO THE
PETITIONER BY THE COURT BELOW IN CRIME NO.383/2010 OF
PUTHOOR POLICE STATION**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Crl.M.C.No.2445 of 2015

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Dated this the 23rd day of July, 2015

O R D E R

The order under challenge is the one impugned at Annexure A2 rendered on 02/12/2014 by the Judicial First Class Magistrate's Court-I, Kottarakara on CMP No.7742/2014 in CP 300/2010 whereby the prayer of the petitioner for a direction to the court below to direct the Passport Authority, Thiruvananthapuram to issue a passport in favour of the accused was declined on the ground of pendency of the criminal case against the petitioner.

2. Heard Sri.Alexander George, learned counsel for the petitioner, learned Public Prosecutor appearing for the respondent State of Kerala and Sri.N.Nagaresh, learned Assistant Solicitor General of India appearing for the additional 3rd respondent, Regional Passport Officer, Thiruvananthapuram.

3. As directed by this Court, the Judicial First Class Magistrate Court-I, Kottarakara has submitted a report on 10/07/2015 to the Registry of this Court wherein it is stated that the case records in

this matter (CP 300/2010) are missing from that court and that in spite of earnest efforts, the records could not be traced out till now. It appears that the case was committed to the Sessions Court earlier on 20/01/2011 and later it was returned to the aforesaid Magistrate Court on 03/06/2011 to cure the defects and thereafter the case records were found to be missing from the Magistrate's court concerned. It appears that one of the factors which made the court below to pass the impugned rejection order is due to the missing of the case file. The other ground stated in the impugned order is that the case is one which is triable by the Court of Sessions etc. As of now the limited prayer made by the learned counsel on behalf of the petitioner is that appropriate direction may be issued by this Court to the Passport Authority to renew his passport with liberty to the petitioner to approach the competent criminal court by filing subsequent appropriate application to travel abroad as and when the bonafide need occurs in that regard. This submission made by the learned counsel for the petitioner appears to be reasonable and fair. It is pointed out by the petitioner that his expired passport has already been surrendered before the Regional Passport Officer, Thiruvananthapuram by submitting the application

which is referred in the impugned order. It is made clear that it is open to the petitioner to make a fresh application to the 3rd respondent, Regional Passport Officer, Thiruvananthapuram to issue or renew passport for a period of one year. It is further directed that the 3rd respondent shall consider the same notwithstanding the pendency of the present criminal case and take necessary decision thereon. In case the 3rd respondent decides to issue the passport, it is open to the 3rd respondent, Regional Passport Officer to retain the original of that passport in their safe custody after furnishing attested photocopy of the same to the petitioner by registered speed post. Thereafter, it is open to the petitioner to approach the competent criminal court concerned with necessary application seeking permission to travel abroad, in which event that court shall consider in the light of the legal principles well settled in that regard by the rulings of this Court as in Asok Kumar v. State of Kerala reported in 2009 (2) KLT 712, Muhammed v. State of Kerala reported in 2012 (4) KLT 655 and Mohammed Rafeek v. Union of India reported 2011 (3) KLT 117 etc. The petitioner while making such application shall implead the Investigating Officer concerned as well as the Regional Passport Officer, Thiruvananthapuram and

the court below after hearing the petitioner, the Investigating Officer, and the Regional passport Officer shall take a decision thereon as aforestated. In case permission is granted by the court below to the petitioner to travel abroad, then the Regional Passport Officer will release the passport to the petitioner in accordance with such permission granted by the court below.

4. Before parting this case, it is further ordered that the Judicial First Class Magistrate Court-I, Kottarakara will take all intensive steps to ensure that the lost case file is retrieved.

With these observations and directions and directions the Crl.M.C.stands finally disposed of.

Sd/- ALEXANDER THOMAS, JUDGE

MJL

