

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 12TH DAY OF MAY 2015/22ND VAISAKHA, 1937

CrI.MC.No. 2719 of 2015 ()

(AGAINST THE ORDER DTD.14.10.2014 IN CRL.M.P.NO.3778/14 IN SC.NO.632/09
OF ADDITIONAL SESSIONS JUDGE-IV, THRISSUR)

PETITIONER/ACCUSED:

NOUSHAD, S/O.MOIDEENKUNJI, AGED 34 YEARS
PUTHUVETTIL HOUSE, P.O.PUNNA, MANATHALA
THRISSUR.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS/STATE:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. THE SUB INSPECTOR OF POLICE
CHAVAKKAD, THRISSUR DISTRICT.

R1 & R2 BY PUBLIC PROSECUTOR SRI.THOMAS JOHN AMBOOKAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
12-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

ANNX.A - CERTIFIED COPY OF THE ORDER DATED 14/10/2014 IN
CRL.M.P.NO.3778/14 IN S.C.NO.632/09

ANNX.B - TRUE COPY OF THE ORDER DATED 18-7-2014 IN CC.NO.894/12 ON
THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD.

ANNX.C - TRUE COPY OF THE ORDER DATED 18-7-2014 IN CRL.M.P.NO.2929/14
IN S.C. NO.1068/10 ON THE FILE OF 4TH ADDITIONAL SESSIONS COURT,
THRISSUR.

ANNX.D - TRUE COPY OF THE ORDER DATED 11-4-2014 IN M.P.NO.3148/13 IN
C.P.NO.8/14 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
CHAVAKKAD.

RESPONDENT(S)' EXHIBITS:

NIL

// TRUE COPY //

P.A TO JUDGE.

ALEXANDER THOMAS, J.

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Dated this the 12th day of May, 2015.

ORDER

The petitioner is the accused in S.C.No.632/2009 on the file of the IVth Additional Sessions Court, Thrissur alleging commission of offence punishable under Sec. 307 IPC. He is aggrieved by the order passed by the learned Sessions Judge declining permission to go abroad on his plea of issuing No Objection Certificate for the passport. The learned Sessions Judge has dismissed the said application as per the impugned Annexure-A order. It is the specific contention of the petitioner that the factual grounds stated in the impugned Annexure-A order for the dismissal of the application are incorrect and factually wrong and therefore the petitioner is entitled to get the relief sought for in this matter. It is in these circumstances the petitioner has prayed in this Crl.M.C to set aside the impugned Annexure-A order and to grant necessary permission in that regard as sought for by him.

2. Heard Sri.K.P.Mujeeb, learned counsel for the petitioner, and the learned Public Prosecutor appearing for the respondents.

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3. The court below has dismissed the application of the petitioner by Annexure-A order on the following ground therein.

“In S.C.632/2009 petitioner is prosecuted for offences punishable u/s. 307 and other sections of IPC. S H O could refer to SC 395/2012 where petitioner is charged u/s. 307 and 326 IPC. He is accused in CC 894/12 before JFCM in which the offences alleged are u/s. 447, 323 and 354 IPC. He is accused of offences u/s. 395 IPC in Crime 116/09 of Vadakkekka police Station. He is accused of offences u/s. 143, 147, 148, 341, 323, 354, 307, 302 r/w 149 IPC in crime 1706/13 of Guruvayoor police Station. He is also proceeded u/s. 107 Cr.P.C. So as apprehended by the prosecution, the petitioner would escape and delay or stifle prosecution in the grave crimes involved. Hence petition dismissed.”

4. It is pointed that the petitioner is an accused in S.C.No.395/2012 on the file of the Sessions Court, Thrissur and he was later acquitted in that sessions case. It was further pointed out that C.C.No.894/2012 on the file of the Judicial First Class Magistrate Court, Chavakkad was already disposed of by the learned Magistrate as early as on 18.7.2014 by acquitting the petitioner as evident from Annexure-B order. As regards Crime No.116/2009 of Vadakkekka Police Station, it is pointed out that the said case is now pending as S.C.No.1068/2010 on the file of the IVth Additional Sessions Court, Thrissur and in that

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matter the learned Sessions Judge allowed the petitioner to go abroad and to get passport vide order dated 18.7.2014 in Crl.M.P.No.2919/2014 in S.C.No.1068/2010 on the file of the said court as evident from Annexure-C. As regards Crime No.1706/2013 of Guruvayoor Police Station, it is pointed out that the case is pending as C.P.No.8/2014 on the file of the Judicial First Class Magistrate Court, Chavakkad and that the learned magistrate has already issued Annexure-D order stating that the presence of the accused in all the posting dates is not necessary and that the said court has no objection for issuing passport to the petitioner. The Passport Officer can consider the issuance of the application of the accused by ignoring the pendency of that case etc. Thus, on a perusal of these materials it is evidently clear that the basis for rejection as per impugned Annexure-A order is untenable and unsustainable. In that view of the matter Annexure-A order is quashed and the matter is remitted back to the Court of Additional Sessions Judge-IV, Thrissur for fresh consideration. The court below concerned will take into account the relevant aspects as made out in Annexures-B to D and any other materials that may be produced by the petitioner. The court below concerned shall afford an

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opportunity of being heard to the petitioner through his counsel and pass fresh orders in the matter within a period of two weeks from the date of production of a certified copy of this order.

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

ALEXANDER THOMAS,
Judge.

bkn/-