

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

Crl.MC.No. 2795 of 2015

**CMP 5700/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, VADAKARA.
CRIME NO. 1005/2013 OF VATAKARA POLICE STATION, KOZHIKODE.**
.....

PETITIONER/ACCUED:

**NOUFAL, S/O.MOIDU, AGED 26 YEARS,
PARAMBIL HOUSE, PONMERI PARAMBIL,
KALLERY, VATAKARA.**

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S)/COMPOLAINANT/STATE:

- 1. THE REGIONAL PASSPORT OFFICER,
KOZHIKODE - 673620.**
- 2. SUB INSPECTOR OF POLICE,
VADAKARA POLICE STATION - 673103.**
- 3. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682031.**

**R1 BY SRI.N.NAGARESH, A S G
R2 & R2 BY PUBLIC PROSECUTOR SMT.S.HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE I: COPY OF THE ORDER DATED 14.03.2014 OF THE
1ST RESPONDENT.**

**ANNEXURE II: COPY OF THE CMP.NO.5700/2014 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT, VADAKARA.**

**ANNEXURE III: COPY OF THE ORDER IN CMP.5700/2014 OF JUDICIAL FIRST
CLASS MAGISTRATE COURT, VADAKARA.**

RESPONDENT(S)' ANNEXURES: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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Dated this the 25th day of May, 2015.

ORDER

The petitioner is the accused in Crime No.1005/2013 of Vadakara Police Station, Kozhikode registered for offences under Secs. 143, 147, 148, 341, 324, 326, 307 & 153A r/w 149 IPC. The allegation against the petitioner is that on 30.8.2013 at about 7:00 p.m. the petitioner and others formed themselves into an unlawful assembly with a common object of attacking the defacto complainant and to murder him and his friend in furtherance of their common object they committed rioting with deadly weapons like iron stick and sword and attacked and wounded the defacto complainant. The specific allegation against the petitioner is that he beat the defacto complainant with an iron stick on his head. The petitioner was granted bail by the Sessions Court concerned. According to him he had submitted an application for issuance of passport before the 1st respondent-Regional Passport Officer and the said application bearing No.3067442484314 was rejected by the 1st respondent stating that the aforesaid crime is pending as against

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the petitioner. This was so ordered by the 1st respondent as per Annexure-I impugned order issued on 14.3.2014 whereupon the petitioner filed CrI.M.P.No.5700/2014 in the aforementioned crime before the learned Judicial First Class Magistrate Court, Vadakara praying to grant appropriate direction to the Regional Passport Officer for issuance of passport. The learned Magistrate dismissed the prayer in Annexure-II application as per impugned Annexure-III order rendered on 5.9.2014. The court below as per the impugned order held that the final report in this case has not yet been filed and that the offence alleged against the petitioner are serious in nature and that Annexure-II application was filed on the premise that there is scope for getting employment for the petitioner abroad and that the application is filed only on the basis of likelihood of getting a job and that there is no indication that he requires passport for any immediate purpose and that the if a passport is issued in favour of the petitioner there is every chance for not getting the presence of the accused for trial of the case.

2. Heard Sri.T.G.Rajendran, learned counsel for the petitioner, Sri.N.Nagaresh, learned Assistant Solicitor General appearing for the 1st

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respondent-Regional Passport Officer and the learned Public Prosecutor for respondents 2 & 3.

3. The petitioner made submissions on the basis of the averments and contentions raised in the Crl.M.C. The learned Assistant Solicitor General was specifically asked to get instructions as to whether in case this Court directs to consider the application of the petitioner, then what should be the safeguards to be imposed by this Court. The learned Assistant Solicitor General on instructions submitted that in case this Court directs consideration of the application of the petitioner for passport and in case if the 1st respondent decides to issue the passport to the petitioner, then the 1st respondent may be directed to keep the passport in the passport office itself as suggested by this Court. To protect the interest of both parties, it is ordered that it is for the petitioner to make necessary application for issuance of passport disclosing about the requisite details including the details regarding criminal case involving him as an accused and on receipt of the application it is for the 1st respondent to conduct necessary police verification, taking into consideration all the relevant aspects. It is

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made clear that the pendency of the present crime itself need not be taken as a bar for taking into consideration the application. If after such consideration the 1st respondent Regional Passport Officer decides to issue passport to the petitioner, the 1st respondent shall retain the original of that passport in the safe custody of that passport office and forward two attested photocopies of the passport to the petitioner by registered speed post. Thereafter it is for the petitioner to move the court below concerned at the appropriate stage by making necessary application after making the State authorities/Investigating officer concerned and the Regional Passport Officer as parties thereto and establish his need for passport and in case such application is filed it is for the learned Magistrate to consider the same on merits and decide in accordance with law. If the learned Magistrate decides to grant permission to the petitioner to travel abroad then the 1st respondent shall take necessary steps to release the original of the passport to the petitioner. It is made clear that this Court has not made any observations regarding the merits of the claims of the petitioner and it is for the 1st respondent passport officer to proceed with the matter as

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directed above and it is the learned Magistrate to decide any application that may be filed in future in accordance with law, taking into account the then prevailing facts and circumstances. The impugned Annexure-III order stands modified to the said extent.

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

ALEXANDER THOMAS,
Judge.

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