

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

Crl.MC.No. 3409 of 2015 ()

CMP 191/2015 of J.M.F.C.-II, PATHANAMTHITTA DATED 20-01-2015

CRIME NO. 565/2011 OF KOIPURAM POLICE STATION , PATHANAMTITTA

PETITIONER/PETITIONER/APPROVER:

SAI DEVAN THAMPI @ SASI
S/O.RAJ MOHAN THAMPI, SWAPNAM, THULAMPARAMBU
NADUVATH MURI, HARIPPAD VILLAGE.

BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRA KRISHNAN
SRI.V.VINAY

RESPONDENT/COUNTER PETITIONER/COMPLAINANT/STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031
(CRIME NO.565/2011 OF KOIPURAM POLICE STATION
PATHANAMTHITTA).

BY PUBLIC PROSECUTOR SMT.SAREENA.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 3409 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-I: TRUE COPY OF THE VISA ISSUED FROM MINISTRY OF
INTERIORS, UAE, IN FAVOUR OF THE PETITIONER.

ANNEXURE-II: TRUE COPY OF ORDER DATED 20.01.2015 IN CMP NO.191/15
IN CR NO.565/11 OF KOIPURAM POLICE STATION.

RESPONDENT(S) ' EXHIBITS : NIL

//True copy//

P.A to Judge

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B.KEMAL PASHA, J.

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Crl.M.C. No. 3409 of 2015

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Dated this the 11th day of November, 2015

ORDER

The petitioner was the 11th accused in Crime No.565/2011 of the Koipuram Police Station, Pathanamthitta District. The matter was investigated into. The petitioner turned an approver. As bail was not granted to him, he had to approach this Court. This Court, vide decision reported in **Sai Devan Thampi v. State of Kerala and others** [2013 (4) ILR Kerala Series 496], ordered the enlargement of the petitioner on bail and thereby, he was enlarged on bail. Still, the petitioner is on bail.

2. According to the petitioner, as he wanted to get an employment abroad, he had applied for a passport. The passport was issued. In the meantime, the Police

verification report was sent by stating that the petitioner is one of the accused in the crime. Therefore, he had to return the passport. According to the petitioner, he will have to apply for a fresh passport, for which, a No Objection Certificate from the court below where the case is presently pending, is required.

3. It seems that presently the status of the petitioner is not that of an accused; whereas his status is that of a witness, being an approver. Unless and until, he violates the conditions of pardon, he cannot be termed as an accused. Matters being so, strictly the provisions of the notification are not applicable in the case of the petitioner. The court below shall issue a certificate stating that presently the petitioner is not an accused in the case; whereas, being an approver, he is in the status of a witness. When the petitioner is on bail, it further fortifies the proposition that he is no more an accused; whereas he is only a witness.

In the result, this Crl.M.C is allowed and the court below is directed to issue a No Objection Certificate stating that the petitioner is no more an accused in the case; whereas, he is in the status of a witness at present. The petitioner is cautioned that in case of violation of the conditions of pardon, his status will become that of an accused and he has to face the consequences also.

Sd/-
B.KEMAL PASHA, JUDGE

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