

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

Crl.MC.No. 3619 of 2015 ()

**-----
CRL.MP. NO.1006/2015 OF SESSIONS COURT, PATHANAMTHITTA.
CRIME NO. 216/2015 OF ADOOR POLICE STATION.
-----**

PETITIONER/ACCUSED:

**-----
MOLLY ABRAHAM @ MOLLY, AGED 50 YEARS,
W/O. RAJAN, RESIDING AT KIDARAKKUZHIYIL HOUSE,
VALAVODIKAVU, NELLIKAMON P.O., ANGADI VILLAGE,
RANNI TALUK, PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.MANU RAMACHANDRAN.

RESPONDENT/COMPLAINANT:

-
- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
 - 2. SUB INSPECTOR OF POLICE,
ADOOR POLICE STATION, PIN-689 694.**

BY SRI.K.I. ABDUL RASHEED, ADDL. D.G.P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- | | |
|--------------------|--|
| ANNEXURE A1 | COPY OF THE ORDER DATED 01/04/2015 IN CRL.MP. NO.1006/2015 OF SESSIONS COURT, PATHANAMTHITTA. |
| ANNEXURE A2 | COPY OF THE PETITIONER'S JOB VISA ISSUED BY UNITED ARAB EMIRATES. |
| ANNEXURE A3 | COPY OF THE RELEVANT PAGES OF THE PETITIONER'S PASSPORT VIDE NO.H4599912. |
| ANNEXURE A4 | COPY OF THE CRL.MP. NO.1691/2015 BEFORE THE LEARNED SESSIONS COURT, PATHANAMTHITTA. |

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

Crl.M.C.No.3619 Of 2015

Dated this the 17th day of June, 2015.

ORDER

The petitioner herein is the sole accused in Crime No.216/2015 of Adoor Police Station registered for offence under Sec.420 IPC. The gist of the prosecution case is that the petitioner-accused received an amount of Rs.1.2 Lakhs from the defacto complainant and his daughter-in-law on 15.11.2014 and 18.11.2014 after offering job abroad and even after four months, the petitioner-accused could not arrange the job as assured and thus committed the above said offence. The petitioner was arrested on 17.3.2015 and produced before the Judicial First Class Magistrate Court, Adoor on 18.3.2015 and she was remanded to judicial custody. Later, the Principal Sessions Court, Pathanamthitta as per Annexure-A1 order dated 1.4.2015 rendered on Crl.M.P.No.1006/2015 in Crime No.216/2015 of Adoor Police Station, had released the petitioner on bail after

Crl.M.C.No.3619 Of 2015

imposing four conditions therein and the last condition, which is condition No.(d) reads as follows:

“(d) Petitioner shall not leave the jurisdiction of this court without prior permission.”

2. It is stated that the petitioner is working in United Arab Emirates (UAE) under the sponsorship of a Limited Liability Company (LLC) and that she had reached Kerala for treatment as she is suffering from cancer. Her visa got expired on 11.5.2015 and if she has not filed application for the renewal of the visa within 45 days, she will lose her job and all other benefits. It is in the light of these aspects, the petitioner approached the Sessions Court, Pathanamthitta by filing Crl.M.P.No.1691/2015 pertaining to the application referred to in Annexure-A4 and prayed for deletion of condition No.(d) in Annexure-A1 order imposed earlier by the Sessions Court and also for consequential permission to enable her to travel to UAE for the limited purpose of renewal of visa and to come back to India. It appears that for reasons not fully discernible now, the petitioner had withdrawn Annexure-A4 application and has now filed the instant Crl.M.C seeking the same

Crl.M.C.No.3619 Of 2015

relief as sought for in Annexure-A4 application.

3. It is really surprising to this Court as to why the Sessions Court, Pathanamthitta did not consider the request of the petitioner in Annexure-A4 application on merits and it is equally surprising as to why the learned counsel appearing for the petitioner before the court below had not prosecuted the prayer of the petitioner before the court below as per Annexure-A4 application. This Court will initiate separate proceedings in that regard after the disposal of this main criminal miscellaneous case as it prima facie appears to disclose precious human rights issues.

4. The fact that the petitioner, who is a lady, is suffering from cancer has been referred to by the learned Sessions Judge even in Annexure-A1 order dated 1.4.2015. Taking into account the fact that the petitioner, who is a lady, is suffering from cancer and that her expired visa has to be urgently renewed very shortly, this Court is inclined to consider the plea of the petitioner. Learned counsel for the petitioner submits on instructions from the petitioner that the petitioner undertakes that if the petitioner is

Crl.M.C.No.3619 Of 2015

permitted to go abroad, she would come back within one month from her departure from India.

5. Accordingly, in the interest of justice, it is ordered that condition No.(d) in Annexure-A1 order will stand deleted. This condition may not be necessary even in the medium term as there is specific condition [condition (b)] in Annexure-A1 order that the petitioner shall appear before the Investigating Officer as and when required. The petitioner will be permitted to go abroad on her filing affidavit of undertaking before the jurisdictional Magistrate concerned dealing with the aforementioned crime undertaking that she would return back to Kerala at least within six weeks from the date of her departure from India for the present purpose. The petitioner should also furnish security before the jurisdictional Magistrate court by way of immovable property or by way of cash security of value to the tune of at least Rs.1.5 Lakhs as the alleged amount received by the petitioner in question which led to the impugned crime comes to about Rs.1.2 Lakhs. The petitioner would undertake in the said affidavit that she would fully

CrI.M.C.No.3619 Of 2015

participate and co-operate with the due process of law. The petitioner will file aforementioned affidavit of undertaking before the jurisdictional Magistrate concerned without any further delay and immediately on receipt of a certified copy of this order. The petitioner will report about her return to Kerala, to the jurisdictional Magistrate, by immediately filing necessary Memo of Intimation, through her counsel, about that, after serving copy of such intimation to the Prosecutor attached to that Magistrate Court.

With these observations and directions, this CrI.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

Bkn/-