

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

CrI.MC.No. 3923 of 2015 ()

CRIME NO. 2070/2014 OF KALADY POLICE STATION, ERNAKULAM

PETITIONER/ACCUSED NO.11 :

**SOYAN VARGHESE
AGED 48 YEARS, S/O. VARGHESE,
VADAKKUMCHERY HOUSE, PANAYALI KARA
KALADY P.O., KALADY VILLAGE.**

BY ADV. SRI.JAISON JOSEPH

RESPONDENT/STATE :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING SUB INSPECTOR OF POLICE
KALADY POLICE STATION.**

BY PUBLIC PROSECUTOR SRI. N. SURESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONERS' ANNEXURES :

- ANNEXURE A1:** TRUE PHOTOCOPY OF THE ORDER IN CRL.M.P.NO.417 OF 2015 ON THE FILE OF HON'BLE SESSIONS COURT, ERNAKULAM.
- ANNEXURE A2:** TRUE PHOTOCOPY OF THE RESIDENCE PERMIT OF THE PETITIONER.
- ANNEXURE A3:** THE TRUE PHOTOCOPY OF THE EXTRACT OF THE DETAILS OF REGISTRATION ISSUED FROM THE MINISTRY OF ECONOMIC AND COMMERCE REGISTRATION & OF COMMERCIAL LICENCE DEPARTMENT, STATE OF QATAR.
- ANNEXURE A4:** THE TRUE TANSLATION OF ANNEXURE A3.
- ANNEXURE A5:** THE TRUE PHOTOCOPY OF THE MEMBERSHIP CERTIFICATE ISSUED FROM THE QATAR CHAMBER OF COMMERCIAL INDUSTRY.
- ANNEXURE A6:** THE TRUE TRANSLATION OF ANNEXURE A5.
- ANNEXURE A7:** THE TRUE PHOTOCOPY OF THE DAMAGED PASSPORT OF THE PETITIONER.
- ANNEXURE A8:** THE TRUE PHOTOCOPY OF THE ORDER IN CRL.M.P. NO.1093 OF 2015 OF JFCM KALADY.
- ANNEXURE A9:** THE TRUE PHOTOCOPY OF THE ORDER IN CRL.M.P. NO. 1167/A OF 2015 OF JFCM KALADY.
- ANNEXURE A10:** THE TRUE PHOTOCOPY OF THE JUDGMENT REPORTED IN 2009(2) KLT 712.
- ANNEXURE A11:** THE TRUE PHOTOCOPY OF THE ORDER IN CRL.MP NO.2512 OF 2014 IN CRIME NO.1395 OF 2014 OF NEDUMBASSERY POLICE STATION ON THE FILE OF JFCM II, ALUVA.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No. 3923 of 2015

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Dated this the 3rd day of July, 2015

O R D E R

The orders under challenge in this case are one at Anx.A-8 order rendered on 23.6.2015 and one at Anx.A-9 order rendered on 17.6.2015 in Criminal Miscellaneous Petition No.1167/2015 in Crime No.2070/2014 of Kalady Police Station, by the Judicial First Class Magistrate's Court, Kalady. As per the impugned Anx.A-8 order, the court below has refused the prayer of the petitioner for necessary direction to issue the passport to enable him to travel abroad to meet his business purposes, for which purpose, as his licence in that regard is expiring on 24.7.2015 as evident from Anx.A-3 issued by the authorities of Qatar. As per the impugned Anx.A-9 order, the court below has rejected the plea of the petitioner for permission to go abroad in connection with his aforestated business purpose. The petitioner is accused in Crime No.2070/2014 of Kalady Police Station for offences registered under Secs143, 147, 148, 341, 326, 307, 506(ii), 109, 120B read with

Sec.149 of the I.P.C. He was granted bail by the Sessions Court as per Anx.A-1 order. It is pointed out by the petitioner that the conditions laid down therein were subsequently lifted. It is further pointed out that as evident from Anx.A-3, the petitioner has to travel to Qatar immediately and reach there to fulfil his responsibility well before the expiry of his licence as per Anx.A-3, which expires on 24.7.2015. It is pointed out by the petitioner that after fulfilling the business responsibility, he would certainly come back to India within the short time possible. It is further pointed out that this Court in Anx.A-10 judgment in the case Ashok Kumar v. State of Kerala reported in 2009 (2) KLT 712, has issued necessary directions to ensure that at least time bound passport is issued in appropriate cases for a limit period so as to fulfil the requirements of persons, who are accused. It is pointed out this crucial aspect of the matter has not been considered in the proper legal perspective, by the court below.

2. Heard Sri.Jaison Joseph, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

3. Without going into the merits of the matter, it can be

seen that the court below has not considered the crucial issue based on the ruling of this Court in the case Ashok Kumar v. State of Kerala reported in 2009 (2) KLT 712, in the matter of issuance of time bound passport to enable persons, who are accused in criminal cases, to travel abroad for a limited period and return back to India. No serious dispute is now made as to the correctness of the factual claim made by the petitioner on the basis of Anx.A-3 said to be issued by the authorities of State of Qatar, wherein it is shown that the licence of the petitioner issued on 20.7.2014 is expiring on 24.7.2015. In this view of the matter, in the interest of justice it is ordered that the impugned Anxs.A-8 and A-9 orders are set aside and the Criminal Miscellaneous Petitions concerned shall stand remitted back for fresh consideration to the court below. The court below shall consider those Criminal Miscellaneous Petitions afresh and pass necessary orders thereon after giving opportunity of being heard to the petitioner through his counsel, if any, and the learned Public Prosecutor appearing for the investigating officer. The court below after taking into consideration the factual submissions on either side will take a decision on this application and will take into account the ruling of this Court in the case Ashok Kumar v. State

of Kerala reported in 2009 (2) KLT 712 and any other appropriate rulings that may be pointed out by either side and take a decision thereon at least within a period of ten days 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.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge