

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Crl.MC.No. 4013 of 2015 (C)

**AGAINST THE ORDER IN CMP NO.712/2015 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT-I ALUVA DATED 28-03-2015**

CRIME NO.2609/2014 OF ALUVA EAST POLICE STATION , ERNAKULAM

PETITIONER/ACCUSED :-

**AJMAL K. HAMZA, S/O HAMZA,
AGED 24 YEARS,
KUDILINGAL HOUSE, MUDICKAL KARA,
MARAMPALLY VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM.**

BY ADV. SRI.P.B.AJOY

RESPONDENT/STATE/COMPLAINANT :-

**STATE OF KERALA,
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

R BY SMT. V.H.JASMINE, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4013 of 2015 (C)

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A: THE TRUE COPY OF THE ORDER DATED 24.10.2014 IN
B.A.NO.7528/2014 OF THE HONOURABLE HIGH COURT OF KERALA.**

**ANNEXURE B: THE CERTIFIED COPY OF THE ORDER DATED 28.03.2015 OF THE
JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALUVA IN CRIMINAL
M.P.NO.712/2015 IN CRIME NO.2609/2014 OF THE ALUVA EAST POLICE
STATION.**

RESPONDENT(S)' ANNEXURES :- NIL

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//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

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Crl.M.C.No.4013 of 2015

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Dated this the 13th day of July, 2015

ORDER

Petitioner herein is the second accused in Crime No.2609 of 2014 of the Aluva East Police Station. He was granted bail by this Court on 24.10.2014 as per the order in Bail Application No.7528 of 2014 on certain conditions. He was directed to surrender his passport before the Court below, and he was also permitted to apply for the passport, if he required it for any purpose. This Court also observed that if such an application is filed, proper decision will have to be taken by the learned Magistrate, taking guidance from **Asok Kumar v State of Kerala [2009 (2) KLT 712]**. The petitioner made an application before the learned Magistrate as Criminal MP.No.712/2015 with prayer to release his passport. The said application was dismissed by the Magistrate as per order dated 28.03.2015. This order is under challenge in this proceeding under Section 482 of the Criminal Procedure Code.

2. On a perusal of the copy of the order in Criminal MP.No.712/2015, I find that it was not properly considered and

decided by the learned Magistrate. It appears that the learned Magistrate has not understood the scope of the direction made by this Court in B.A.No.7528 of 2014. When request is made to release the passport, the learned Magistrate will have to consider the request properly and pass appropriate order. Without assigning any reason the bail application was just dismissed. The matter requires reconsideration.

Hence, this petition is allowed. The impugned order passed by the Court below in Criminal MP.No.712/2015 will stand set aside and the application will stand revived. The learned Magistrate is directed to consider the application properly and legally, and pass appropriate orders.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A.TO JUDGE