

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

Crl.MC.No. 4100 of 2015 ()

**CRL.MP. NO.1932/2015 IN CC. NO.509/2012 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT-IV, KOZHIKODE.**

....

PETITIONER/2ND ACCUSED:

**J.P. PRAKASH, S/O.JAGANNATHA PRABHU,
SUMETHA DIE WORKS, PALAYAM ROAD,
KOZHIKODE.**

**BY ADVS. SRI.T.G.RAJENDRAN,
SMT.ANN SUSAN GEORGE.**

RESPONDENT/COMPLAINANT/STATE:

- 1. THE INSPECTOR OF POLICE,
CBCID, KOZHIKODE- 673 001.**
- 2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SRI.GITHESH. R.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-07-2015, ALONG WITH CRL.MC. NO.4101 OF 2015 AND
CONNECTED CASES, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE I. TRUE COPY OF THE ORDERS IN CRL.M.A.8409/13 IN CRL.R.P.2275/13 DATED 20.12.2013 OF THIS HON'BLE COURT.**
- ANNEXURE I(A). TRUE COPY OF THE ORDERS IN CRL.M.A.1096/14 IN CRL.R.P. 2275/2013 OF THIS HON'BLE COURT.**
- ANNEXURE II. TRUE COPY OF THE ORDER IN CRL.M.P.1932/15 IN CC.509/12 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT IV, KOZHIKODE.**
- ANNEXURE III. TRUE COPY OF THE ORDER IN CMP. 2635/12 OF JUDICIAL FIRST CLASS MAGISTRATE COURT IV, KOZHIKODE.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

=====

Crl.M.C.Nos.4100, 4101, 4102, 4108 ,
4116 & 4123 of 2015

=====

Dated this the 6th day of July, 2015

O R D E R

The order under challenge is at Anx.II order rendered by the Judicial First Class Magistrate's Court-IV, Kozhikode, whereby the petitioner's request to travel abroad was allowed by the court below with the following conditions:

- “1. Petitioner shall deposit Rs. 30,000/- before the Court.
2. Passport Officer is having liberty to renew passport according to law.
3. Petitioner shall be present before the Court as and when required by the court. In default of appearance of petitioner, the amount of Rs.30,000/- deposited before the Court shall be confiscated to Government and the petitioner is not entitled to get back the same amount.”

2. The petitioner is solely aggrieved only by the first condition imposed by the court below that he shall deposit Rs.30,000/- before the court below for the purpose of availing the permission granted by the court. The petitioner is accused in six Calendar Cases referred to in these six Criminal Miscellaneous Cases, for offences under Secs.420, 465, 468, 471 r/w. Sec.34 of

the I.P.C.. The petitioner primarily contends that while granting such similar permission to go abroad as per Anx.III, no such condition as one similar to the present impugned condition to deposit Rs. 30,000/- was ordered earlier.

3. Heard Sri.T.G.Rajendran, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

4. On a consideration of the totality of the facts and circumstances of this case and on a close scrutiny of the impugned order at Anx.II, it cannot be said that the approach made by the court below in insisting for six different deposits in each of these six cases is basically wrong. The permission granted by the court below to the petitioner is to travel abroad for a period of three years, which is relatively long. Therefore, when the court below has granted permission to the petitioner in that regard, it is only just and proper that the court below also imposes such conditions, which are necessary and warranted in the facts and circumstances of the case. The court below is certainly better equipped to judge the situation more intensely and closely than this Court. However,

the combined effect of all the six different orders in this case is that the petitioner will have to deposit Rs.30,000/- in each of these cases and therefore the amount appears to be slightly on the higher side. Accordingly, it is ordered in the interest of justice that the impugned condition is slightly modified by directing that the petitioner shall deposit Rs.10,000/- (Rupees ten thousand only) in each of these cases. It is also made clear that on the petitioner returning back to India within the time limit as stipulated by the court below in the impugned order, then the aforementioned amounts deposited by the petitioner shall be refunded to the petitioner on his surrendering his passport to the court below.

With these observations, these Crl.M.Cs. stand closed.

sdk+

Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge