

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

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

Crl.MC.No. 4239 of 2015 ()

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(CMP.NO.3454/2015 IN C.C.NO.398/2009 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE
COURT, THIRUVANANTHAPURAM)
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PETITIONER/PETITIONER/ACCUSED NO 10:

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DR.REMANI,AGED 56 YEARS,
D/O. LATE UMA BHAI, "ASWANI HOSPITAL",
CURSON ROAD, KOLLAM.**

BY ADV. SRI.V.C.SARATH

RESPONDENT/RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SRI.N.SURESH

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

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APPENDIX

**ANNEX A TRUE COPY OF THE ORDER IN CMP NO.3364/2014 IN CC NO.398/2009
OF THE COURT OF THE ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, THIRUVANANTHAPURAM DATED 12/5/2014**

**ANNEX B TRUE COPY OF THE LETTER FROM AKMG INVITING THE PETITIONER
TO PARTICIPATE IN THE CONVENTION.**

ANNEX C CERTIFIED COPY OF THE ORDER IN CMP NO.3454/2015 IN CC NO 398/2009 OF THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM

**ANNEX D TRUE COPY OF THE CMP NO.9153/2014 IN CC NO 398/2009 OF THE
COURT OF THE ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, THIRUVANANTHAPURAM DATED 2/12/2014**

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Crl.M.C No.4239 of 2015

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Dated this the 13th day of July, 2015

ORDER

This Crl.M.C has been filed to challenge Anx.C order rendered on 1.7.2015 on C.M.P No.3454/15 in C.C 398/2009 on the file of the Additional Chief Judicial Magistrate Court, Thiruvananthapuram to the limited extent that it restricts the period of permission granted to the petitioner to travel abroad only to one month instead of a period of three months sought for by the petitioner in that application.

2. The petitioner is accused No.10 in C.C No.398/2009 which arose out of a final report/charge sheet filed by the Crime Branch in a Crime alleging offences punishable under Sections 120 (b), 109, 406, 409, 420, 465, 468, 471, 202, 212 r/w 34 of the I.P.C. and section 45(B) of RBI Act r/w section 58(B), 5A of RBI Act 1934. A1 is in judicial custody in this case. The petitioner herein is A10. By Anx.D application, another one accused among the 20 accused in this crime, has filed an application seeking discharge

which is still pending and it is pointed out that the trial is not likely to start within next 4 to 5 months. The petitioner who is a doctor, earlier also wanted to travel abroad (U.S.A) for which necessary permission was granted by the court below as per Anx.A order dated 12.5.2014 but the petitioner did not avail of the said benefit as there was some change of plan. The petitioner now wants to travel abroad to attend a medical conference along with her husband who is also a doctor and the medical conference is said to be scheduled in the first week of September 2015 in the U.S.A. Moreover, her daughter is also staying in the U.S.A and she wanted to stay with her daughter for sometime. It is in these circumstances, that the petitioner who wanted to travel with her husband to the U.S.A for attending the medical conference and also to spend some time with her daughter in the U.S.A that she sought permission to travel abroad at least for a period of three months from the period from 20.8.2015 up to 20.11.2015. The court below considered the said plea of the petitioner and was granted permission to travel abroad but had restricted the period only for a period of one month instead of though the petitioner had specifically sought for a period of three months. This restrictive

condition in Anx.C limiting the permission only for a period of one month that is under challenge in this Crl.M.C.

3. Heard Sri. V.C Sarath, the learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent, State of Kerala. The petitioner's plea to travel abroad (U.S.A) for a minimum period of three months was earlier positively considered by the court below and the court below found that the discretion could be exercised in her favour and had accordingly granted a permission. Due to the change of plan, the petitioner did not avail of the said benefit of the Anx.A order. This, prima facie shows that the petitioner who is a lady doctor will not in any way flee away from the long arms of the law. Moreover, the court below has also found that her case that she wants to attend a Medical Conference in the first week of September 2015 in the U.S.A is believable. The respondent, prosecution has no case that the said request made by the petitioner is not genuine. In Anx. A order also, the petitioner had pleaded that she wanted to spend sometime with her daughter in the U.S.A and this plea was found to be genuine and was accepted the court below and granted a permission to travel abroad for three months as per Anx. A order. Therefore, this Court

is of the considered opinion that the condition restricting for a period only to one month to travel abroad instead of she applied for a period of three months is not tenable. The petitioner and her husband are doctors and her daughter is also in the U.S.A. Moreover Accused No.1 is still in judicial custody and A4 has sought for discharge. Having permitted the petitioner to travel abroad, the court below could have easily granted her permission for three months time instead of limiting it by one month, by scheduling the trial suitably. In this view of the matter, the impugned Anx.C order to the extent it limits permission to the petitioner to travel abroad only for a period of one month will stand modified with the direction that the petitioner could travel abroad and come back to India within a period three months from the date of release of her passport, ie., from 20.8.2015 to 20.11.2015. All other conditions in Anx. C order will remain unaltered, which the petitioner shall comply, upon which the petitioner could travel abroad on 20.8.2015 and shall return back to India on or before 20.11.2015. The petitioner thereafter, shall surrender her passport before the court below immediately after arrival from the U.S.A, atleast on or before 23.11.2015 without fail. The petitioner will also execute a bond for

Rs.1 lakh with two solvent sureties each for the like sum to the satisfaction of the court below undertaking that the above passport will be resubmitted before the court below on or before 23.11.2015.

With these observations and directions the Crl.M.C stands finally disposed of.

sd/-

sab

ALEXANDER THOMAS, JUDGE