

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

Crl.MC.No. 4266 of 2015

CC 867/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - II, HOSDRUG

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PETITIONER(S)/ACCUSED:

**MOHAMMED ASHRAF,
S/O.MOIDEENKUTTY, CHATHANKAI HOUSE, CHANDRAGIRI P.O.,
KASARGOD DISTRICT.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRA KRISHNAN
SRI.V.VINAY**

RESPONDENT(S)/COMPLAINANT/STATE:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM-682 031,
(CRIME NO.272/2009 OF BEKAL POLICE STATION,
KASARGOD DISTRICT).**

*** ADDITIONAL R2 IMPEADED.**

- 2. REGIONAL PASSPORT OFFICER,
PASSPORT OFFICE, MINI BYPASS ROAD,
ERANHIPPALAM, NEAR MALABAR HOSPITAL,
KOZHIKODE - 673 006.**

*** ADDITIONAL R2 IMPEADED AS PER ORDER DTD.16.7.2015 IN CRL.MA.6755/15**

**R1 BY PUBLIC PROSECUTOR SRI.GITHESH R.
R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
16-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 4266 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE-I: TRUE COPY OF THE ORDER PASSED BY THIS HONOURABLE COURT IN
CRL.MC.NO.3874/13 DATED 28.08.2014.**

**ANNEXURE-II: TRUE COPY OF THE ORDER IN CMP.8117/2014 DATED 10.11.2014
PASSED BY THE JFCM-II, HOSDURG.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

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Dated this the 16th day of July, 2015.

ORDER

In pursuance of this Court's order dated 28.8.2014 at Anx-I in Crl.M.C.No.3874/2013, the Judicial First Class Magistrate's Court-II, Hosdurg, had issued Anx-II order dated 10.11.2014 on Criminal Miscellaneous Petition No.8117/2014 in C.C.No.867/2012, wherein the petitioner, who is the accused therein, was permitted to travel abroad with the following conditions:

“1. The petitioner/accused is granted permission to apply for temporary passport for a period of one year on executing fresh bond for Rs. 75,000/- with two solvent sureties for the like sum.

2. The pendency of C.C.867/2012 before this court against the petitioner or the further investigation thereon will no way a bar to deny temporary passport to the petitioner.

3. The Regional Passport Authority, Kozhikode is required to exempt the operation of Sec.6(2)(f) of the Passport Act in favour of the petitioner while considering his application for temporary passport.

4. The petitioner shall co-operate with the ongoing probe and it is further made clear that the one year period granted above would start from the date of issue of the temporary passport.”

2. It is pointed out by the petitioner that the permission granted as per Anx-II was one year. The petitioner thus obtained

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temporary passport and its validity period is said to be over. It is further pointed out that only if not less than three months time is available for the expiry of the passport, foreign countries concerned would normally consider the grant of visa. That now the petitioner has to go abroad in connection with his business. In the light of these circumstances that the petitioner has been constrained to approach this Court with the prayer for a direction to the Judicial First Class Magistrate Court-II, Hosdurg, to grant No Objection Certificate to the petitioner, who is the accused in C.C.No.867/2012 to renew his passport and to go abroad in connection with his business on such terms and conditions as this Court may deem fit and proper.

3. Heard Sri.S.Rajeev, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent-State of Kerala.

4. Pursuant to the direction issued by this Court as per Anx-I order dated 28.8.2014 in Crl.M.C.No.3874/2013, the jurisdictional Magistrate Court concerned by Anx-II order dated 10.11.2014 had granted necessary permission to the petitioner for securing a temporary passport for a period of one year with the conditions as stated herein above.

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5. Taking into account the totality of the facts and circumstances, it is ordered in the interest of justice that as the additional time now sought for by the petitioner is only for a period of three months, it is ordered that the Judicial First Class Magistrate Court-II, Hosdurg will grant necessary No Objection Certificate to the petitioner to enable him to renew his passport so as to enable him to travel abroad for a period of three months from the date of renewal. To effectuate this direction, it is for the petitioner to move appropriate application before the learned Magistrate by impleading the prosecution agency as well as the Regional Passport Officer, Kozhikode and thereupon, the learned Magistrate shall grant necessary permission/NOC as directed above and may impose any other conditions that are just, fair and proper in the facts and circumstances of the case to regulate the permission granted to the petitioner in this regard.

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

ALEXANDER THOMAS,
Judge.

bkn/-