

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

Crl.MC.No. 4348 of 2015 ()

**CMP. NO.3163/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, VARKALA.
CRIME NO. 129/2015 OF KADAKKAVOOR POLICE STATION.**

.....

PETITIONER/PETITIONER:

**KAMARUDEEN, AGED 44 YEARS,
K.V. HOUSE, KATTUVIAL VEEDU, MANANAKKU,
PERUMKULAM, KEEZHATTINGAL VILLAGE,
THIRUVANANTHAPURAM.**

BY ADV. SRI.SHAJIN S.HAMEED.

RESPONDENT/RESPONDENT:

**1. STATE OF KERALA,
REPRESENTED THROUGH THE SUB INSPECTOR OF POLICE,
KADAKKAVOOR POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

*** ADDL. R2 IMPEADED**

**2. REGIONAL PASSPORT OFFICER,
TRIVANDRUM, GOVERNMENT OF INDIA,
MINISTRY OF EXTERNAL AFFAIRS, SNSM BUILDING,
KARALKADA JUNCTION, PETTAH P.O.,
THIRUVANANTHAPURAM-695 024.**

*** ADDL. R2 IS IMPEADED AS PER ORDER DATED 21/07/2015
IN CRL.MA. NO.6999/2015.**

**R1 BY PUBLIC PROSECUTOR SRI.GITHESH. R.
ADDL. R2 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A COPY OF THE FIR IN CRIME NO.129/2015 OF
KADAKKAVOOR POLICE STATION.**
- ANNEXURE B COPY OF THE PETITION CMP NO.3163/2015 FILED BY THE
PETITIONER BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, VARKALA.**
- ANNEXURE C COPY OF THE ORDER DATED 21/05/2015 IN CMP. NO.3163/2015
IN CRIME NO.129/2015 OF KADAKKAVOOR POLICE STATION.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Dated this the 21st day of July, 2015.

ORDER

The prayer in this Crl.M.C is as follows:

“.....to quash Annexure-C order dated 21/05/2015 in C.M.P.No.3163/2015 of the Judicial 1st Class Magistrate Court-I, Varkala and direct the Court below to direct the Regional Passport Officer, Thiruvananthapuram to renew Passport No. F 2604318 of the petitioner for a period of two years.”

2. The court below as per the impugned Anx-C order has rejected the said prayer for a direction to the Regional Passport Officer, Thiruvananthapuram, to renew the passport of the petitioner in view of the allegations raised against the petitioner in the impugned crime.

3. Heard Sri.Shajin S.Hameed, learned counsel for the petitioner and the learned Public Prosecutor appearing for the 1st respondent-State of Kerala and Sri.N.Nagaresh, learned Assistant Solicitor General, appearing for the additional 2nd respondent-Regional Passport Officer, Thiruvananthapuram.

4. The petitioner submits that the limited prayer sought for by him is for a direction to the 2nd respondent-Regional Passport Officer to consider the application that may be submitted by the petitioner for renewal of his expired passport for a period of two years. It is further

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pointed out that the petitioner has genuine need to travel abroad in connection with his occupation. In view of the rulings as in Asok Kumar v. State of Kerala reported in 2009 (2) KLT 712 and Mohammed Rafeek v. Union of India reported in 2011(3) KLT 117 the impugned Anx-C order is not sustainable as the limited prayer of the petitioner was only for a direction for renewal of the passport. Accordingly, the impugned Anx-C order is set aside.

5. It is pointed out by the petitioner that the Regional Passport Officer, Thiruvananthapuram has already been arrayed as 2nd respondent in C.M.P.No.3163/2015 in Crime No.129/2015. Accordingly, it is ordered in the interest of justice that it will be open to the petitioner to make requisite proper application for renewal of his expired passport before the additional 2nd respondent by submitting his original of the expired passport for such purpose and thereupon the 2nd respondent will consider the said application notwithstanding the pendency of the present crime and take a decision regarding the renewal of the said expired passport. This shall be done without much delay in accordance with law after submission of the application in that regard by the petitioner along with a certified copy of this order. After issuance of the renewed passport, it will be open to the 2nd respondent to keep the original of the said renewed passport in the safe custody of

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the 2nd respondent. However, the 2nd respondent shall forward attested photocopies of the renewed passport to the petitioner by registered speed post. As and when the petitioner is able to establish a genuine bonafide need for travelling abroad, it will be open to him to make appropriate application in that regard before the Judicial First Class Magistrate Court-I, Varkala after impleading the Investigating Officer as well as the Regional Passport Officer and the court below will consider the same in accordance with law and in the light of the legal principles laid down by this Court in the aforestated court rulings. In case the court below grants permission to the petitioner to travel abroad after consideration of such application, then the 2nd respondent-Regional Passport Officer, shall release the passport to the petitioner to enable him to travel abroad subject to conditions that may be imposed by the court below in such application.

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

ALEXANDER THOMAS,
Judge.

bkn/-