

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

Crl.MC.No. 4889 of 2015 ()

**CMP.NO. 1011/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - I,
NORTH PARAVUR
CRIME NO. 346/2011 OF NORTH PARUR POLICE STATION, ERNAKULAM DISTRICT**

PETITIONER/ACCUSED NO.53:

**NOUSHAD. A.C., S/O.YOUSAF,AGED 40 YEARS,
ALUVA COTTAGE, ATHOLI, KOZHIKODE,
NOW RESIDING AT 16/1551, P T JACOB ROAD,
THOPPUMPADY, ERNAKULAM.**

**BY ADVS.SRI.G.S.KRISHNAN KARTHA
SRI.LIJIN THAMBAN**

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY DETECTIVE INSPECTOR, CBCID, HHWII,
ERNAKULAM, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.PIN-682 031**

***ADDL.R2 IMPEADED**

***ADDL.R2: PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, KADAVANTHRA,
ERNAKULAM, PIN-682 036**

***ADDL.R2 IS IMPEADED AS PER ORDER DATED 12-08-2015 IN
CRL.MA.NO.7961/2015.**

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

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 4889 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX A1: TRUE COPY OF THE ORDER IN BA NO.7178/2011 OF THIS HON'BLE COURT GRANTING BAIL TO THE PETITIONER

ANNEX A2: CERTIFIED COPY OF THE ORDER PASSED BY THE JFCM I COURT NORTH PARAVUR IN CMP NO.1011/2015.

ANNEX A3: TRUE COPY OF THE ORDER PASSED BY THIS HON'BLE COURT IN CRL.MA NO.9495/2013 IN BA NO.7278/2013 ALLOWING INTERIM CUSTODY OF PASSPORT TO ANOTHER ACCUSED IN THE SAME CRIME.

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

Crl.M.C.No.4889 Of 2015

Dated this the 12th day of August, 2015.

ORDER

The order under challenge is the one at Anx-A2 dated 8.7.2015 rendered by the Judicial First Class Magistrate Court-I, North Paravur in Crl.M.P.No.1011/2015 in Crime No.346/2011 of North Paravur Police Station, whereby the request of the petitioner (53rd accused in the Crime) for renewal of his passport which has expired was declined by the court below.

2. Heard Sri.Krishnan Kartha, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent-State of Kerala.

3. On going through the impugned Anx-A2 order, it appears that the said order is not in consonance with the legal principles well settled by the rulings of this Court in S.K.Asok Kumar v. State of Kerala reported in 2009 KHC 557, Muhammed v. State of Kerala reported in 2012 (4) KLT 655 and Mohammed Rafeek v. Union of India reported in 2011(3) KLT 117. Moreover, the learned counsel for the petitioner

Crl.M.C.No.4889 Of 2015

submits that the limited prayer made by the petitioner is only for a direction to ensure renewal of his expired passport and that he would reserve his right to move before the court below for actual permission to go abroad as and when necessity arise by making appropriate application in that regard. In view of this limited submission made by the petitioner, it is ordered in the interest of justice that the passport of the petitioner (which expired on 18.9.2013) now said to be surrendered before the court below shall be returned back by the court below to the petitioner to enable him to make appropriate application for renewal of the passport. Thereafter, the petitioner shall submit necessary application for renewal of the passport to the additional 2nd respondent- Passport Officer, Regional Passport Office concerned upon which the said authority will consider the renewal of the passport notwithstanding the pendency of the present impugned criminal proceedings and such consideration shall be in accordance with their guidelines and norms. In case the 2nd respondent decides to grant renewal of the passport, then it will be open to the 2nd respondent to retain the original of the petitioner's renewed passport in the safe custody of their office. As and when the petitioner has actual necessity to travel abroad, it will be open to him to make appropriate application in that regard before the court

Crl.M.C.No.4889 Of 2015

below after impleading the State as well as the Passport authority concerned in that application. The court below will then consider such application on merits in the light of the then prevailing facts and circumstances of the case and in the light of the aforestated rulings. If necessary permission is granted by the court below, then the 2nd respondent should release the passport to the petitioner, depending upon the decision that may be taken by the court below on such application.

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

ALEXANDER THOMAS,
Judge.

bkn/-