

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

Crl.MC.No. 5261 of 2015

**CRL.M.P.NO.2726 IN CRL.A.NO.119/2013 OF THE III ADDITIONAL SESSIONS
COURT, THRISSUR**

PETITIONER(S)/ACCUSED :

**MAJEED @ ABDUL MAJEED,
S/O.MOIDEEN, VAKKAYI VEETIL HOUSE,
PERIYAMBALAM DESOM, ANDATHODE, PUNNAYURKULAM.**

**BY ADVS.SRI.M.R.VENUGOPAL
SMT.DHANYA PASHOKAN**

RESPONDENT(S)/COMPLAINANT :

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

BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE I:** TRUE COPY OF THE JUDGMENT DATED 11/04/2013 IN S.C NO.201/2008 OF THE COURT OF 1ST ADDITIONAL SESSIONS COURT, THRISSUR.
- ANNEXURE II:** TRUE COPY OF THE ORDER DATED 12/04/2013 IN CRL.MP NO.1663/2013 OF THE SESSIONS COURT, THRISSUR.
- ANNEXURE III:** TRUE COPY OF THE OFFER LETTER DATED 27/05/2015 ISSUED FROM THE HABITATE SCHOOL.
- ANNEXURE IV:** TRUE COPY OF THE NOTICE DATED NIL ISSUED BY THE REGIONAL PASSPORT OFFICE, KOCHI.
- ANNEXURE V:** TRUE COPY OF THE REPLY DATED 22/06/2015 SUBMITTED BY THE PETITIONER TO THE REGIONAL PASSPORT OFFICE
- ANNEXURE VI:** CERTIFIED COPY OF THE ORDER DATED 22/07/2015 IN CRL.M.P NO.2726/2015 OF THE COURT OF IIIRD ADDITIONAL SESSIONS JUDGE, THRISSUR

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

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Crl.M.C.No.5261 of of 2015

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Dated this the 11th day of August, 2015

O R D E R

This Crl.M.C. has been filed with the prayer to quash or delete the impugned condition No.(2) stipulated in para 4 of Anx.VI order dated 22.7.2015 rendered by the IIIrd Additional Sessions Judge, Thrissur in Crl.M.P.No.2726/2015 in Crl.Appeal No.119/2013.

2. The petitioner was convicted by the 1st Addl. Assistant Sessions Court, Thrissur, in S.C.No.201/2008 for the offences under Secs.279, 304A and 304 of the I.P.C. The petitioner had preferred Criminal Appeal as Crl.Appeal No.119/2013, in which, the IIIrd Addl. Sessions Judge, Thrissur had admitted the appeal and suspended the execution of the sentence by Anx.II order. Later the petitioner sought permission to travel abroad for a period of two years in view of the long pendency of the Crl.Appeal as he had secured an offer for job as a driver in Ajman as evidenced by Anx.III. The court below, as per Anx.VI order, was convinced that discretion could be exercised in favour of the petitioner to travel abroad for a period of 14 months. Accordingly, the Passport Authority was directed to

issue the passport of the petitioner only for a period of 14 months to enable him to avail of the permission to travel abroad. The following conditions have been placed by the court below while granting permission, as per paragraph 4 of Anx.VI order, which read as follows:

“(1) The petitioner is permitted to go abroad for 14 months and the Passport Authority shall issue passport to the petitioner only for a period of 14 months from today.

(2) The petitioner shall deposit an amount of Rs. 1,00,000/- agreeing its forfeiture in case of any violation to the order of appearance.

(3) The petitioner/convict shall produce two solvent sureties to execute additional bond for Rs. 1,00,000/- each ensuring the presence of the convict before the court as and when required by the court. The sureties shall produce solvency certificates or the original title deeds along with latest tax receipts.

(4) The convict/petitioner shall appear before the court as and when directed by the court.”

3. The petitioner submits that since there is already condition No.(3) directing him to produce two solvent sureties to execute additional bond for Rs.1,00,000/- each ensuring the presence of the convict before the court below as and when required by the court, condition No.(2) is really not necessary and creates lot of hardships and difficulties to the petitioner and if condition No.(2) is enforced, he will not be able to go abroad.

4. Heard Sri.M.R.Venugopal, learned counsel appearing for

the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

5. After hearing both sides, this Court is of the considered opinion that in view of condition No.(3) of Anx.VI, condition No.(2) directing the petitioner to deposit an amount of Rs.1 lakh may be quite onerous and difficult for the petitioner to comply and may not really be warranted in the facts and circumstances of this case. Accordingly, condition No.(2) will stand deleted. All the other conditions in Anx.VI order will remain unaltered. It is further ordered that the petitioner will file an affidavit before the Sessions Court concerned undertaking that the petitioner shall appear before the court below as and when directed by the court and further that the petitioner shall furnish attested copy of his passport and his foreign address and land-line and mobile cellular numbers, through which he could be contacted while he is in the foreign country concerned.

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

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

Cr1.M.C.5261/15

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