

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

Crl.MC.No. 6020 of 2015

**ORDER DATED 31-01-2011 IN CC 1579/2007 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, PERUMBAVOOR
CRIME NO. 207/2007 OF KALADY POLICE STATION, ERNAKULAM**
.....

PETITIONER(S):

**SHABEER P.K., AGED 38 YEARS,
S/O. KOYAKUTTY, PALLIKKAPARA HOUSE, KANJOOR P.O.,
THIRUVAMKARA, ERNAKULAM, PIN-683 575.**

BY ADV. SRI.P.M.HABEEB

RESPONDENT(S):

**1. STATE OF KERALA,
REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

**2. THE PASSPORT OFFICER,
PASSPORT OFFICE, PANAMBALLY NAGAR, KOCHI,
PIN-682 036.**

**R1 BY SENIOR PUBLIC PROSECUTOR SMT.SAREENA GEORGE
R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
22-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 6020 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A- TRUE COPY OF ORDER DATED 31-1-2011 IN CC NO.1579/2007.

ANNEXURE B- LETTER DATED 13-4-2010.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

K.RAMAKRISHNAN, J.

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Crl.M.C. No.6020 OF 2015

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Dated this the 22th day of September, 2015

ORDER

This is an application filed by the petitioner challenging Annexure B order under Section 482 of Code of Criminal Procedure (herein after referred to as the Code)

2. It is alleged in the petition that the petitioner has applied for passport in the year 2009 and the passport office refused passport on the ground the petitioner is an accused in criminal case. After trial, he was acquitted in that case as per order in CC 1579/07. Thereafter he was arrayed as an accused in another criminal case for participating in a rally and he apprehends that he will not get passport on account of the pendency of the crime. So he wanted intervention of this court for a direction to the passport authorities to issue passport.

3. Heard the counsel for the petitioner Sri.P.M.Habeeb and Sri. Nagaresh, Assistant Solicitor General

of India representing the 2nd respondent and learned Public Prosecutor Smt.Sereena George appearing for the 1st respondent.

4. The counsel for the petitioner submitted that the application was filed on the apprehension that if an application is filed they will not allow the application. Further he is prepared to apply before the court where the proceedings in respect of the crime is pending and seek permission of that court to go abroad and thereafter he can apply for passport and if such an application is filed directing the 2nd respondent to pass appropriate orders will be sufficient.

5. The Assistant Solicitor General Of India submitted that after passing Annexure B order, no application has been filed and that application was dismissed with liberty for the petitioner to file afresh after the case is over. Further he will have to submit an application showing the correct crime number and the stage of the case and also he will have to get permission from the court in which the case is pending. If proper application is filed, the 2nd respondent

will consider and pass appropriate orders in accordance with law.

6. It is an admitted fact that when the petitioner was arrayed an accused in CC 1579/07 pending before the Judicial First Class Magistrate Court-1 Perumbavoor arising out of Crime No.207/2007 of Kalady Police Station, he applied for passport and that was dismissed by the 2nd respondent as per Annexure B order with an observation that he can apply afresh after disposal of the case. That case was ended in acquittal as per Annexure A order. Now the apprehension of the petitioner is that if he applies again since he was implicated in another case, they are likely to deny the application.

7. It is true that in view of the dictum laid down in the decisions relied on the petitioner viz., *Harris v State of Kerala* [2010 KHC 828], *Mohammed v State of Kerala* [2012 (4) KLT 655], *Oseela Abdulkhader and Another v State of Kerala* [2012 (4) KLT 346], this court has held that the pendency of a criminal case alone is not a ground for denying passport for the purpose of employment. Even as

per the guidelines given by the Central Government in respect of the issuance of passport in such cases, only thing required is they will have to get permission from the concerned court for go abroad as mentioned in the decisions reported in Ashok Kumar v State of Kerala [2009 (2) KLT 712] . But the petitioner has not even filed any application either for seeking permission to go abroad or filed an application for fresh passport before the authorities. without filing such application petitioner is not expected to come before this court on the basis of apprehension alone. Further he had not even mentioned the crime number in which he has been implicated subsequent to the disposal of the case by Annexure A order.

So under the circumstances this petition is disposed of directing the petitioner to apply to the court in which proceedings regarding the crime said to have been registered against the petition is pending, seeking permission to go abroad and if such an application is filed the Magistrate is directed to dispose of that application after hearing the Assistant Public Prosecutor of that court

taking into account the guidelines given in Ashok Kumar's Case (supra). After obtaining such permission if the petitioner applies to the 2nd respondent for issue a passport, then the 2nd respondent is directed to consider and dispose of the application in accordance with law.

With the above direction and observation this petition is disposed of.

Sd/–

K.RAMAKRISHNAN, JUDGE

SKV