

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

Crl.MC.No. 6033 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN CRMC 1197/2015 of SESSIONS COURT,
MANJERI, DATED 10-08-2015 IN
CRIME NO.898/2015 OF THIRURANGADI POLICE STATION, MALAPPURAM

PETITIONER(S)/4TH ACCUSED:

NAYEEMA, AGED 27 YEARS,
D/O. ABDUL RAHMAN, A1 RIYADH HOUSE,
KADALUNDI NAGARAM PO, MALAPPURAM DISTRICT.

BY ADVS.SRI.HARISH R. MENON
SRI.K.T.SHYAM KUMAR

RESPONDENT(S) :

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
ADVOCATE GENERAL'S OFFICE, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SMT. P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
14-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

:2:

Crl.MC.No. 6033 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

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ANNEXURE A: TRUE COPY OF THE ORDER PASSED BY THE SESSIONS
COURT, MANJERI, GRANTING BAIL.

RESPONDENT(S) ' EXHIBITS

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// True Copy//

P.A. to Judge

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K. RAMAKRISHNAN, J.

Crl.M.C No.6033 of 2015

Dated this the 14th day of September, 2015

ORDER

This petition is filed by the 4th accused in Crime No.898/2015 of Thirurangadi police station challenging the condition imposed in Crl.M.C.No.1197/2015 of the Sessions Court, Manjeri under Section 437(i)(b) and Section 482 of the Code of Criminal Procedure (hereinafter called the 'Code').

2. It is alleged in the petition that the petitioner has been arrayed as 4th accused in Crime No.898/2015 of Thirurangadi police station along with other accused persons including his father and mother. The defacto complainant is the husband of the petitioner. The defacto complainant married the petitioner on 05.02.2009 and a girl child was born to them in the wedlock. However the relationship became strained and they are residing

separately. Both the defacto complainant and the petitioner herein are working abroad. The intention of the defacto complainant is to see that, she should not go abroad and lose her employment. When she came to know about the registration of the crime, she along with other accused moved the Sessions Court, Manjeri, for anticipatory bail and as per Annexure-A order, the Sessions Judge had granted anticipatory bail with conditions inter alia that the petitioners shall not leave India without getting permission from the court and they shall surrender their passports before the lower court and if they are not having passport, they shall file an affidavit to that effect. This condition is being challenged by the petitioner by filing this petition, seeking modifications.

3. Heard the counsel for the petitioner Sri.Harish R. Menon and Public Prosecutor Smt.P.Maya.

4. The counsel for the petitioner submitted that the case was registered on the basis of the complaint given by her own husband and there are other cases also pending

between them. This was filed as a counter blast to the criminal cases filed by the petitioner against her husband. Further she is working abroad and if her passport is surrendered, she may not be able to go abroad and her visa will be cancelled and she will be losing her employment. So she prayed for modifying that condition.

5. The application was opposed by the learned Public Prosecutor on the ground that investigation is still in the preliminary stage.

6. It is an admitted fact that on the basis of the complaint given by the husband of the petitioner, Crime No.898/2015 of Thirurangadi police station was registered against the petitioner and others alleging offence under Section 420 read with Section 34 of the Indian Penal Code. It is also in away admitted in the petition itself that, both the petitioner and her husband are working abroad. It is seen from Annexure-A order that after hearing the defacto-complainant and also the Public Prosecutor and the counsel for the petitioner herein, the Sessions Judge passed an

order inclining to grant anticipatory bail with conditions inter alia that the petitioners including the petitioner herein shall not leave India without getting permission from the court and they shall surrender their passports before the lower court and if they have no passport they shall file an affidavit to that effect. It is seen from the order that the investigation is only in the preliminary stage. The presence of the accused persons may be required for proper investigation. Provision has been made in the order itself that, they will have to appear before the investigating officer on 13.08.2015 for interrogation and thereafter as and when required. If there is no such condition, it is not possible to procure their presence, for the purpose of smooth progress of the investigation. So under the circumstances, it cannot be said that the condition imposed by the court below, directing the petitioner to produce the passport and shall not leave India without getting permission is illegal. Further the right of the petitioner to leave India has been protected as well with a rider that she

shall leave with permission of the court. So this can be clarified that, if the petitioner wants to go abroad in connection with her employment or for the purpose of renewing visa, she is at liberty to move the concerned magistrate court where the first information report has been filed (Judicial First Class Magistrate Court-I, Thirurangadi) and if such an application is filed, then the learned magistrate is directed to consider and dispose of the application as far as possible on the same day, taking into account the dictum laid down in the decision reported in **Asok Kumar v. State of Kerala (2009(2) KLT 712)**.

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

Sd/-

K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge

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