

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

CrI.MC.No. 7177 of 2014 ()

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CRMP 3023/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ERNAKULAM
CRIME NO. 88/CR/EKM/2008 OF CBCID, ERNAKULAM
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PETITIONER/ACCUSED No.2:

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G.GIREESH, AGED 48 YEARS
S/O.V.K.RAJAN, PULIYANEZHATHU HOUSE, AYYAPPANKAVU
ERNAKULAM, KOCHI - 18.**

BY ADV. SRI.SHIJU VARGHEESE

RESPONDENT/RESPONDENT:

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STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682031**

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- ANNEXURE-A1: TRUE COPY OF THE PASSPORT BEARING NO.E7695727 DATED 23.2.2004**
- ANNEXURE-A2: CERTIFIED COPY OF THE ORDER IN CMP NO.2083/2013 DATED 27.7.2013**
- ANNEXURE-A3: TRUE COPY OF THE AFFIDAVIT FILED IN CMP NO.2083/2013 DATED 24.7.2012**
- ANNEXURE-A4: TRUE COPY OF THE CMP NO.3023/2014 DATED 7.7.2014**
- ANNEXURE-A5: CERTIFIED COPY OF THE ORDER IN CMP NO.3023/2014 DATED 25.8.2014**

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7177 of 2014

Dated this the 8th day of January, 2015

O R D E R

The petitioner herein is the 2nd accused in Crime No.88/CR/EKM/2008 of CBCID, Ernakulam, registered under Sections 406, 465, 468, 471, 477 and 120B IPC read with Section 34 IPC. He is a qualified Civil Engineer, and is employed abroad. All his connections and roots are here. He would occasionally go abroad, and very often he would be here with his family. Pending the proceedings, he made an application before the learned Judicial First Class Magistrate-I, Ernakulam, for an order directing renewal of his passport for ten years, because in the normal course the passport would be renewed only for one year in view of the Government notification on the point. The learned Magistrate declined the said request as per order dated 25.08.2014 in Crl.M.P.No.3023/2014, and directed the passport authorities to renew the passport in accordance with the notification issued by the Government.

2. Section 7 of the Passport Act, 1967 provides that a

passport or travel document shall, unless revoked earlier, continue in force for such period as may be prescribed, and different periods may be prescribed for different classes of passports or travel documents, or for different categories of passports or travel documents. Section 8 of the Passport Act provides that where a passport is issued for a shorter period than the prescribed period under Section 7, such shorter period shall, unless the passport authority for reasons to be recorded in writing otherwise determines, be extendable for a further period, which, together with the shorter period, shall not exceed the prescribed period. Section 22 of the Passport Act authorises the Government of India to exempt any person or class of persons from the operation of all or any of the provisions of the Passport Act or the Rules made thereunder, by notification made in the official gazette, and subject to such conditions, if any, as the Government may specify in the notification. Section 24 of the Passports Act authorises the Central Government to make rules for carrying out the purposes of the Passports Act, by notification in the official gazette. One of the subjects, in clause (d) within

the rule making powers is the period for which passports and travel documents shall continue in force. In exercise of the powers under Sections 22 and 24 of the Passports Act, the Government of India issued a notification on 25.08.1993 regarding the period for which passport issued to persons facing criminal prosecution can be renewed. This notification provides that the passport issued to every such person facing criminal prosecution shall be issued for a period specified in the order of court, if the court specifies the period for which passport has to be issued, or if no period, either for the issue of the passport or for the travel abroad, is specified in such order, the passport shall be issued for a period of one year. Thus, in normal circumstances, when there is no court order, the passport authority can renew the passport issued to a person facing prosecution, only for a period of one year. That is why, the petitioner seeks orders from the court for renewal of his passport for a period of ten years.

In the particular facts and circumstances, I think that the petitioner's passport cannot be ordered to be renewed for a

period of ten years. Considering the circumstances including his roots and connections here, and also his property interest here, I find that, for the time being, directions for renewal for a period of three years can be granted. If renewal is ordered for a period of more than three years in the present circumstances, it may go against the spirit and purport of the provisions in the Passports Act and the Rules made thereunder.

In the result, this petition is allowed in part. The impugned order passed by the court below will stand modified to the effect that the passport authority shall renew the petitioner's passport for a period of three years. The petitioner will definitely comply with the conditions imposed by the court below as per Annexure-A2 order.

Sd/-

P. UBAID, JUDGE

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