

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

OP(Crl.).No. 116 of 2015 (Q)

C.C.NO.224/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KALADY

PETITIONER(S):

**T.V.MATHAI, AGED 70 YEARS,
S/O.PAILY GHEE VARGHESE, THANIMUKALATHU AIKARAKKUDY,
VENGOLA P.O., ARACKAPPADY, PIN - 683 556.**

**BY ADVS.SRI.PAUL K.VARGHESE
SMT.A.A.GEETHA**

RESPONDENT(S) :

- 1. THE STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
KALADY POLICE STATION,
REPRESENTED THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**
- 2. GOVERNMENT OF INDIA,
MINISTRY OF EXTERNAL AFFAIRS,
REGIONAL PASSPORT OFFICE, COCHIN.**
- 3. THE REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, PANAMPILLY NAGAR P.O.,
COCHIN - 682 036.**

**R1 BY GOVERNMENT PLEADER SMT.SAREENA GEORGE
R2 & R3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 27-05-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: A TRUE COPY OF THE FRONT PAGE OF THE PASSPORT OF
 THE PETITIONER.**
- EXT.P2: A TRUE COPY OF THE RELEVANT PAGE OF PASSPORT SHOWING
 VISA OF THE PETITIONER TO UNITED STATES OF AMERICA.**
- EXT.P3: A TRUE COPY OF THE ORDER IN C.M.P.NO.2337/2013 IN
 C.C.NO.1140/2009 OF THE JUDICIAL FIRST CLASS MAGISTRATE
 COURT, PERUMBAVOOR DATED 04.10.2013.**
- EXT.P4: A TRUE COPY OF THE LETTER NO.IMP/302462465/15 ISSUED BY
 THE 3RD RESPONDENT DATED 06.03.2015.**
- EXT.P5: A TRUE COPY OF LETTER NO.CO2077273258713 ISSUED BY
 THE 3RD RESPONDENT DATED 18.03.2015.**
- EXT.P6: A TRUE COPY OF THE EXPLANATION SUBMITTED BY
 THE PETITIONER BEFORE THE 3RD RESPONDENT DATED NIL.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

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O.P(CrI.)No. 116 of 2015

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Dated this the 27th day of May, 2015

J U D G M E N T

This Original petition (Criminal) has been filed seeking invocation of this Court's visitorial powers of superintendence conferred as per Art.227 of the Constitution of India, with the following prayers:

- “(i) Direct the Judicial First Class Magistrate Court Kalady to dispose of C.C.No. 224/2014 immediately within a time specified by the (sic) this Hon'ble Court and in the meantime all further proceedings based on Exhibit P4 and P5 may be kept in abeyance.
- (ii) Call for the records leading to Exhibit P4 and P5 and quash the same.
- (iii) Issue an order of direction commanding the 3rd respondent not to take any coercive steps against the petitioner's passport based on Exhibit P4 and P5.”

2. As directed by this Court, the Judicial First Class Magistrate's Court, Kalady, has submitted report dated 13.5.2015 to the Registry of this Court stating that the case records in this matter was transferred from the Judicial First Class Magistrate's Court-I, Perumbavoor and received by the Magistrate's Court, Kalady on 22.9.2014 and taken on its file as C.C.No.224/2014, wherein

offences alleged are under Sec. 5(3)(b) and 9(b)(1) of the Explosives Act. Altogether nine witnesses have been cited on the side of the prosecution. That on 29.11.2013, CW-2 was examined as PW-1 before the Magistrate's Court, Perumbavoor and after receiving the file on 22.9.2014, summons was issued to CWs 3 and 4 for examination on 10.12.14 and CW-4 was present on 10.12.2014 and he was discharged. That summons was issued to Cws-5 to 7 to appear on 5.5.2015 and since there was no sitting on 5.5.2015, the case was adjourned by notification to 17.8.2015. It is further stated that non-availability of permanent Assistant Public Prosecutor in that court is affecting the speedy trial of cases of the said Magistrate's court and the total pendency is about 4783 cases. That apart from these difficulties, the case in question could be disposed of within four months, etc.

3. Heard Sri.Paul.K.Varghese, learned counsel for the petitioner, Sri.N.Nagaresh, learned Assistant Solicitor General of India appearing for respondents 2 and 3 and the learned Public Prosecutor appearing for the 1st respondent State of Kerala.

4. Sri.Paul.K.Varghese, learned counsel for the petitioner submits that the petitioner is not pressing the challenge as against

Exts.P-4A and P-5A herein and those are issued by the Regional Passport Officer and that liberty may be granted to the petitioner to make that challenge, in appropriate proceedings. The learned counsel for the petitioner submitted that the limited prayer sought by the petitioner now is for a direction to the Judicial First Class Magistrate's Court, Kalady to dispose of C.C.No.224/2014 without any further delay.

5. Considering the facts and circumstances of this case and taking into account the report dated 13.5.2015 of the Judicial First Class Magistrate's Court, Kalady, it is ordered in the interest of justice that the said Magistrate's court will take all reasonable endeavours to ensure that the Calendar Case, C.C.No.224/2014 pending before that court is disposed of in the manner and within the time limit as suggested in the above said report of that court. It is further made clear that in case a regular Assistant Public Prosecutor is posted before the said court, then the court below may consider whether or not to advance the case from the present posting date of 17.8.2015, to a suitable early date as may be deemed fit and proper by the court below. It is open to the petitioner to produce certified copy of this judgment before the

court below concerned.

With these observations and directions, the O.P(Crl.) stands finally disposed of.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge