

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

OP(Crl.).No. 195 of 2015 (Q)

**CC.NO.1560/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, PARAPPANANGADI
CRIME NO. 298/2013 OF TANUR POLICE STATION, MALAPPURAM DISTRICT**

PETITIONER :

**A. RAJAN
AGED 50 YEARS, S/O. GOPALAN
AMMENKARA HOUSE, VATTATHANI
K. PURAM, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT :

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

BY PUBLIC PROSECUTOR SRI. N. SURESH

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 30-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE F.I. STATEMENT IN CRIME NO. 298/2013 OF TANUR
POLICE STATION.
- EXT.P2 COPY OF THE FIR IN CRIME NO. 298/2013 OF TANUR POLICE STATION.
- EXT.P3 COPY OF THE RELEVANT EXTRACT OF FINAL REPORT IN CRIME
NO. 298/2013 OF TANUR POLICE STATION.
- EXT.P4 COPY OF THE JUDGMENT REPORTED IN 2009(2) KLT 712.
- EXT.P5 COPY OF THE JUDGMENT REPORTED IN 2012 (4) KLT 655.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

ALEXANDER THOMAS, J.

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Dated this the 30th day of June, 2015.

J U D G M E N T

The main prayer in this Original Petition filed under Article 227 of the Constitution of India seeking invocation of this Court's visitorial power of superintendence conferred as per that provision is as follows”

“To pass appropriate orders, directing the Judicial First Class Magistrate Court, Parappanangadi to pass orders for issuance of a passport to the petitioner for a limited period, if such an application is filed by the petitioner (1st accused) in C.C.No.1560/2013 on the files of that Court and pass orders thereon in the light of Exhibits P-4 and P-5 Judgments of this Hon'ble Court, within a period of one week of filing of such application, in the interest of justice.”

2. Heard Sri.K.K.Mohamed Ravuf, learned counsel for the petitioner and learned Public Prosecutor for the respondent-State of Kerala.

3. After hearing both sides and taking into consideration the totality of the facts and circumstances of this case, it is ordered in the interest of justice that it is for the petitioner to file

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appropriate application before the court below seeking permission for issue of passport and necessary permission to travel abroad, after establishing before the court below about the petitioner's need to travel abroad. In such a case, then it is for the learned jurisdictional Magistrate concerned to consider such plea in such appropriate application that may be filed by the petitioner after giving reasonable opportunity of being heard to the petitioner through his counsel and the Investigating Officer through the learned Prosecutor concerned and in accordance with law and taking into account the rulings of this Court as in Asok Kumar v. State of Kerala reported in 2009 (2) KLT 712 (Ext.P4) and Muhammed v. State of Kerala reported in 2012(4) KLT 655 (Ext.P5) and any other appropriate rulings that governs the field. It is made clear that this Court has not expressed any opinion on the merits of the plea of the petitioner regarding his claim for permission to travel abroad and it is for the petitioner to establish such actual need to travel abroad and thereafter it is for the court below to consider the same in accordance with law. It is made clear that such consideration of

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the plea will be solely within the province of the learned Magistrate. Appropriate decision thereon may be taken without further delay, at any rate, within a period of ten days of hearing respective parties concerned through their counsel and Public Prosecutor.

With these observations and directions, the Original Petition (Crl) stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-