

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

OP(Crl.).No. 221 of 2015 (Q)

CRIME NO.82/2014 OF KARIPPUR POLICE STATION

PETITIONER/ACCUSED :

**JAAFAR SADIKH,
S/O.KUNHAIDRU, AGED 30 YEARS,
PATTARATHIL HOUSE, MELMURI P.O.,
PULASSERI (VIA), PALAKKAD DISTRICT- 679 307.**

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT(S)/STATE & COMPLAINANT :

**1. STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KARIPUR POLICE STATION,
MALAPPURAM DISTRICT- 673 638.**

**2. THE PASSPORT OFFICER,
PASSPORT OFFICE, MALAPPURAM -676 505.**

**R1 BY PUBLIC PROSECUTOR SRI.GITHESH.R
R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 12-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP(Crl.).No. 221 of 2015 (Q)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE PASSPORT.

**EXHIBIT P2. COPY OF THE FORWARDING LETTER TO THE IST RESPONDENT FROM
THE EMIGRATION AUTHORITIES DATED 26.1.2014.**

**EXHIBIT P3. COPY OF THE FIR & FIS IN KARIPPUR POLICE STATION
CRIME NO.82/2014.**

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

O.P(Cr1).No.221 Of 2015

Dated this the 12th day of August, 2015.

J U D G M E N T

The prayers in this Original Petition instituted under Article 227 of the Constitution of India seeking the invocation of visitorial jurisdiction under the said provision are as follows:

“i. A direction to the first respondent to complete the investigation and file final report in the Crime No.82 of 2014 of Karippur police Station on the files of the Chief Judicial Magistrate Court, Manjeri within a reasonable time.

ii) A direction to the lower court to dispose the case against the petitioner in pursuance of the Crime No.82 of 2014 of Karippur Police Station on the files of the Chief Judicial Magistrate Court, Manjeri within a reasonable time.”

2. Heard Sri.U.K.Devidas, learned counsel for the petitioner and the learned Public Prosecutor appearing for the 1st respondent.

3. Sri.U.K.Devidas, learned counsel for the petitioner, submits that the petitioner is only pressing for prayer No.i as the investigation has not yet been completed and therefore the question of expeditious completion of trial does not arise in the facts of this case as of now.

4. In compliance with this Court’s order dated 4.8.2015, the respondent-Sub Inspector of Police, District Crime Branch,

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Malappuram, has filed a statement dated 30.7.2015 giving the details of the case. It is inter alia stated in paragraph 8 of the said statement which reads as follows:

“8. As per the investigation so far conducted, it is evident that the accused had committed the offence U/s 468, 471 IPC and Sec 12(1) (b) of Passport Act 1967 and he is prosecutable for committing offence. The investigation of the case is completed and charge sheet will be submitted soon after getting prosecution sanction from the Government as per section 15 of Passport Act.”

5. Sri.N.Nagaresh, learned Assistant Solicitor General of India, submits that power in the matter of sanction envisaged under Sec.15 of the Passport Act has been delegated to the competent authority of the State Government and that such delegated State Government authority has been considering and granting sanction as per that provision.

6. In view of the submissions made in paragraph 8 of the aforestated statement dated 30.7.2015 filed by the respondent-Investigating Officer the following orders are passed in the interest of justice.

1. In case the request for prosecution sanction from the Central Government authorities as envisaged under Sec.15 of the Passport Act has not yet been formally submitted on behalf of the investigation team, then it shall be ensured that the competent authority concerned shall forward the formal request seeking sanction of the designated authority under Sec.15 of the Passport Act for such necessary sanction of prosecution in this case. In that eventuality, the designated authority

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concerned shall consider the request without any further delay and take necessary decision thereon and communicate the same to the competent officer representing the investigation/prosecution in this case within 6-8 weeks from the date of receipt of the request. Upon receipt of a copy of the proceedings in that regard the investigation agency will ensure that the investigation in its entirety is completed formally and necessary final report be submitted before the competent criminal court within a period of 6 weeks thereafter.

2. In case the necessary requisition for grant of sanction under Sec.15 of the Passport Act has already been forwarded on behalf of the prosecution in this case to the competent authority conferred with the power in the matter of sanction, then the said sanctioning authority shall consider the request without any further delay and take a decision thereon within six weeks from the date of receipt of a copy of this judgment. Thereafter on receipt of the proceeding in this regard, it is for the Investigating Officer concerned to ensure that the investigation is formally completed and final report is prepared and submitted before the competent criminal court within one month thereafter.

The Public Prosecutor will ensure that two certified copies of this order are forwarded to the Investigating Officer to enable such officer to forward one such copy to the authority conferred with the power in the matter of sanction under Sec.15 of the Passport Act.

With these observation and directions, this Original Petition stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-