

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WA.No. 1958 of 2013 IN WP(C).29765/2013

AGAINST THE JUDGMENT IN WP(C) 29765/2013 DATED 06-12-2013
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APPELLANT/PETITIONER :

K.K.RAIHANATH, AGED 28 YEARS
W/O.HUSSAIN, KUTTIIPURATH KANDIYIL HOUSE
POOVANTHUPARAMB P.O., ANAKUZHICKARA
KOZHIKODE-673 008.

BY ADV. SMT.T.B.MINI

RESPONDENTS/RESPONDENTS :

1. THE REGIONAL PASSPORT OFFICER
REGIONAL PASS PORT OFFICE, P.O. ERANHIPALAM
KOZHIKODE-673 008.
2. THE SUB INSPECTOR OF POLICE
MEDICAL COLLEGE POLICE STATION, KOZHIKODE-673 008.

R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 BY SPL.GOVERNMENT PLEADER, SMT. GIRIJA GOPAL.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 26-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 1958 OF 2013

Dated this the 26th day of May, 2015

JUDGMENT

Shaffique, J.

The petitioner in W.P.(C) No.29765 of 2013 is the appellant who challenges the judgment dated 06.12.2013.

2. Petitioner had filed the writ petition seeking for a direction to the 1st respondent to issue police clearance certificate and release the passport produced along with Ext.P4 application at the earliest. Petitioner being the holder of passport, intended to obtain Visa for going abroad as her husband was working in Kuwait. She submits that she was the 4th accused in CC No.79/11 pending before the Judicial First Class Magistrate Court, Kunnamangalam. She had obtained permission from the Magistrate Court seeking permanent exemption from appearing before Court for a period of six months. It is submitted that when the petitioner submitted application for police clearance certificate before the 1st

respondent, the Regional Passport Officer on 07.10.2013, the same was not issued. Learned Single Judge observed that since the petitioner is also an accused in the case pending before the Judicial First Class Magistrate, there is justification on the part of 1st respondent in not acting upon Ext.P4 application. Accordingly, the writ petition was dismissed.

3. Learned counsel for the appellant submits that the petitioner wants to go abroad to visit her husband and if necessary permission is not granted, she will be put to undue hardship. It is not disputed that a criminal case is pending against the petitioner and therefore if she wants to go abroad, she will have to get necessary permission from the concerned Magistrate. Admittedly, the validity of Visa has also expired and the petitioner will have to get fresh Visa as well.

Under such circumstances we are of the view that learned Single Judge has not committed any error in dismissing the writ petition. However, we observe that if the petitioner obtains appropriate permission from the Magistrate Court

concerned, fresh application can be filed before the Passport Officer, who shall consider the same and pass appropriate orders.

With the above observation, the Writ Appeal is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**