

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

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

WP(C) .No. 6496 of 2015 (J)

PETITIONER(S) :

SHAMNAD,
AGED 27 YEARS, S/O.SHOUKATH,
SHAFI MANZIL, MUTTAKKAVU,
NEDUMPANA P.O., KOLLAM - 691 580.

BY ADVS.SRI.GEORGE VARGHESE (PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SRI.MANU SEBASTIAN
SMT.PARVATHY NAIR.

RESPONDENT(S) :

1. UNION OF INDIA,
REPRESENTED BY SECRETARY TO THE MINISTRY OF EXTERNAL
AFFAIRS,
CENTRAL SECRETARIAT, NEW DELHI 110 003.
2. REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, SNSM BUILDING,
KARALKADA JUNCTION, PETTA P.O.,
THIRUVANANTHAPURAM - 695 024.
3. STATION HOUSE OFFICER,
CHATHANNOOR POLICE STATION, CHATHANNOOR,
KOLLAM DISTRICT - 691 572.

BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL &
BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR.

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

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: A TRUE COPY OF ACKNOWLEDGMENT LETTER DATED 20/10/2014
ISSUED FROM THE PASSPORT SEVA KENDRA, KOLLAM.
- EXT. P2: A TRUE COPY OF ORDER DATED 27/06/2012 IN C.C NO.56/10
ON THE FILE OF JFMC, PARAVOOR.
- EXT. P3: A TRUE COPY OF LETTER DATED 26/11/2014 ISSUED FROM
THE OFFICE OF THE 2ND RESPONDENT.
- EXT. P4: A TRUE COPY OF APPLICATION ALONG WITH AFFIDAVIT
SUBMITTED BY THE PETITIONER BEFORE THE ENQUIRY
OFFICER ATTACHED TO THE OFFICE OF THE 2ND RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

- ANNEXURE A1: TRUE COPY OF THE POLICE VERIFICATION REPORT ISSUED
FROM ASSISTANT COMMISSIONER OF POLICE, CHATHANNOOR
POLICE STATION IN CRIME NO.878/09 (CC 56/10) DATED
1511/2014.
- ANNEXURE A2: TRUE COPY OF THE COMMUNICATION DATED 03/02/2015
ISSUED BY THE COMMISSIONER OF POLICE, KOLLAM CITY.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

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Dated this the 26th day of May, 2015

J U D G M E N T

The petitioner is aggrieved with the rejection of Ext.P4 application for issuance of Passport on the basis of a pending crime. By Ext.P3, the petitioner's application was rejected on the ground that, the petitioner is an accused in Crime No.878 of 2009 registered by the 3rd respondent. The petitioner's contention is that, the said crime was registered for reason of alleged commission of offence punishable under Sections 20 and 21 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 (for brevity, Sand Act'). The offence was taken cognizance of the jurisdictional Magistrate, as per C.C No.56 of 2010 and the proceedings had been kept in abeyance for reason of there being no written complaint filed by the authorised officer as provided under Section 25 of the Sand Act.

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2. The learned Assistant Solicitor General of India on instruction submits that, a reading of Ext.P2 order of the jurisdictional Magistrate itself would indicate that, the proceedings against the accused have been stopped under Section 258 of Code of Criminal Procedure, 1973 (Cr.P.C) and such stoppage will not be a bar to the authorised officer in filing a complaint in accordance with law.

3. The learned Counsel for the petitioner however would contend that, the punishment provided under Sections 20 and 21 of the Sand Act is two years and the alleged offence itself being one stated to have been committed on 18.11.2009, the proceedings would be barred by limitation as provided under Section 468 of the Code of Criminal Procedure.

4. In such circumstance, the petitioner's contention with respect to the limitation has to be accepted and the 3rd respondent is directed to verify whether any written complaint has been filed by the authorised officer under the Sand Act and

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issue a certificate to the petitioner, if no such complaint has been filed within the period of limitation, within a period of four weeks from the date of production of the certified copy of this judgment. On such certificate being issued, the petitioner shall produce the same before the 2nd respondent, who shall consider the application afresh without reference to the crime registered as Crime No. 878 of 2009; in accordance with law, within a period of two months from the date of production of the certificate from the 3rd respondent.

The writ petition is disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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// true copy //

P.A to Judge.