

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No.34623 of 2014 (C)

PETITIONER:

**SHAFI FASILUDEEN,AGED 28 YEARS,
S/O.FASILUDEEN,SHAFI MANZIL,THURUTYAMAN,
PORUNTHAMAN PULIMATH PO,
THIRUVANANTHAPURAM 695 612.**

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

- 1. UNION OF INDIA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF HOME AFFAIRS, NEW DELHI-110 001.**
- 2. THE REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE,SNSM BUILDING,
KARALKADA JUNCTION,PETTAH P.O,
THIRUVANANTHAPURAM 695 024.**

R1 & R2 BY SRI.N.NAGARESH,ASSISTANT SOLICITOR GENERAL OF INDIA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.34623 of 2014 (C)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1:TRUE COPY OF THE SSLC MARK LIST OF THE PETITIONER.

**EXHIBIT-P2:TRUE COPY OF THE FINAL REPORT SUBMITTED BY THE
PETITIONER IN CRIME NO.443/2008 OF KILIMANOOR POLICE
STATION.**

**EXHIBIT-P3:TRUE COPY OF THE ACKNOWLEDGMENT LETTER
DATED 31/10/2014 ISSUED BY THE 2ND RESPONDENT TO THE
PETITIONER.**

**EXHIBIT-P4:TRUE COPY OF THE LETTER NO. OBJ/302067067/14
DATED 28/11/2014 ISSUED BY THE 2ND RESPONDENT TO THE
PETITIONER.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.34623 of 2014

Dated this the 4th day of February, 2015

JUDGMENT

The petitioner has approached this Court seeking for the following reliefs:

"(i) To call for the records relating to Ext.P1 to P4 and to issue a writ of mandamus declaring that the direction in Ext.P4 is illegal and unwarranted and to direct the 2nd respondent to issue Passport to the petitioner after obtaining any undertaking to the effect that he will present before the court in connection with the trial, etc. in C.P. No.104 of 2009 pending before the Judicial First Class Magistrate Court-II, Attingal, in Crime No.443 of 2008 of Kilimanoor Police Station;

(ii) Any other appropriate writ, order or direction also may be granted to meet out justice under the circumstances of the above case."

2. The learned counsel for the petitioner submits that, Ext.P4 dated 28.11.2014 has been issued to the petitioner to approach the Passport Officer after clearance of the criminal case, which is stated as pending consideration, which is not correct or sustainable either on facts or in law. The petitioner concedes that, he is an accused in Crime No.443 of 2008 of the Kilimanoor Police Station, which forms the subject matter of company proceedings as C.P. No.104 of 2009 before the Judicial First Class Magistrate's Court-II, Attingal. The learned counsel submits that, clearance can be obtained only on finalisation of the proceedings,

which may take years and the same shall not bar the way of the petitioner in exercising the right to have a Passport and to travel abroad, more so, it being a right forming part of Article 21 of the Constitution of India.

3. The learned A.S.G. submits with reference to the contents of the statement filed, that what is contemplated under Ext.P4 is not a verdict regarding acquittal, but necessary sanction or clearance to be given to the concerned Criminal Court, where the case is pending.

4. In the said circumstances, the petitioner is set at liberty to approach the concerned Court, where the case is pending and to get clearance/obtain 'NOC' in applying and obtaining a Passport. Subject to this, application, if any, preferred by the petitioner shall be considered and appropriate orders shall be passed at the earliest, at any rate, within 'one month' from the date of receipt of a copy of this judgment.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

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