

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 9TH DAY OF NOVEMBER 2012/18TH KARTHIKA 1934

WP(C).No. 26026 of 2012 (C)

PETITIONER(S):

NOUSHIN KAMMADAN,
S/O CHANDRAN,SREE LAKSHMI HOUSE,THONDAYAD,
P.O.CHEVARAMBALAM,KOZHIKODE-673 017.

BY ADVS.SRI.V.V.SURENDRAN
SRI.P.M.PADMANABHAN
SRI.P.A.HARISH

RESPONDENT(S):

1. PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE,ERANHIPALAM,
KOZHIKODE-673 006.
2. STATION HOUSE OFFICER,
MEDICAL COLLEGE POLICE STATION,KOZHIKODE-673 008.
3. STATE OF KERALA,REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031

R1 BY ADV. SRI.P.PARAMESWARAN NAIR, ASG OF INDIA
R2 & R3 BY GOVERNMENT PLEADER SMT.SAREENA GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-11-2012, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

sts

WP(C)NO.26026/2012

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE CASE DIARY STATEMENTS GIVEN TO THE PETITIONER**
- P2 COPY OF THE PAYMENT RECEIPT AND THE ACKNOWLEDGEMENT DATED
10/10/12**
- P3 COPY OF THE RELEVANT PAGE OF THE PASSPORT WITH THE ENDORSEMENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

T.R. RAMACHANDRAN NAIR, J.

W.P.(C) No.26026 OF 2012

Dated this the 9th day of November, 2012.

J U D G M E N T

This writ petition is filed by the petitioner seeking for a direction to the 1st respondent to renew or re-issue the passport to the petitioner within a time stipulated by this Court.

2. The petitioner is an Indian citizen permanently residing in Kozhikode and he is holding an Indian passport having No.E1653623 issued by the 1st respondent. The same was valid for a period from 02.05.2002 to 01.05.2012. He is involved in a criminal case alleging offence under Section 17 of the Kerala Money Lenders Act which is pending as C.C.No.871/2010 before the Judicial First Class Magistrate, Kunnamangalam and he has been granted bail also. It is stated that some of the witnesses have been examined and some more yet to be examined and the case is now posted to 04.12.2012. It is also stated that it may take a few months to complete the trial.

3. The petitioner is proposing to undertake a trip to Dubai

from 28.12.2012 to 08.01.2013 and accordingly he has filed an application for renewing the passport on 10.10.2012. The petitioner was given a reply as per Ext.P4 stating that since a criminal case is pending against him, he will have to produce proof of clearance of the case and clarify in person at the Passport Office. Learned counsel for the petitioner submitted that the criminal case has not been finally disposed of and therefore, Ext.P4 direction cannot be complied with by the petitioner.

4. Learned Assistant Solicitor General of India submitted that when a criminal case is registered against a person, either he will have to produce the order of acquittal or he will have to get permission from the criminal court wherein the case is pending, to travel outside.

5. Learned counsel for the petitioner, when the case came up for admission on 05.11.2012, pointed out that the learned Magistrate Kunnamangalam has taken long leave and therefore, this Court directed the Registry to get a report from the Judicial First Class Magistrate Court, Kozhikode about the alternative arrangements in the matter. A report has been received from the

Judicial First Class Magistrate (Marad Cases), Kozhikode stating that the said learned Magistrate is having the charge of Judicial First Class Magistrate, Kunnamangalam with effect from 8 a.m on 30.10.2012 until further orders.

The petitioner will have to move the learned Magistrate in the light of the principles stated by this Court in **Asok Kumar vs. State of Kerala** (2009 (2) KLT 712) and if permission is obtained, he will have to produce it before the Passport Authority. Learned counsel for the petitioner then prayed that in the light of the urgency, a direction may be issued to consider the application proposed to be filed by the petitioner and pass appropriate orders within a short time. The petitioner will file an application along with a certified copy of this judgment before the Judicial First Class Magistrate Court (Marad Cases) who will dispose of the application within a further period of ten days.

This writ petition is disposed of as above.

T.R. RAMACHANDRAN NAIR
JUDGE

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