

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

Crl.MC.No. 743 of 2007()

CMP.2050/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONER: 3RD ACCUSED

NAYANABEN JAYESH KUMAR LAD,
W/O.JAYESH KUMAR LAD, 8, SHREE SAIDEEP,
MADHU - KUNJU SOCIETY, NEAR KASARGOD TALAV,
KATARGAM, SURAT, GUJARAT, INDIA.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: COMPLAINANT AND STATE OF KERALA

THE STATE OF KERALA, REP. BY THE
SUB INSPECTOR OF POLICE, CHENGAMANADU
POLICE STATION THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.743 of 2007

Dated this the 30th day of March, 2007

ORDER

The grievance of the petitioner is that her application for release of the passport has been rejected by the learned Magistrate under Annexure-A3 order. The petitioner is the 3rd accused in a prosecution for offences punishable, inter alia, under Section 471 I.P.C and Section 12 of the Indian Passport Act. Her husband is the 2nd accused. Another lady is the 1st accused. The crux of the allegation is that the 2nd accused attempted to travel together with the 1st accused out of India making use of the passport of the 3rd accused. This was allegedly a criminal act done by accused 1 and 3 in collusion. The passport of the petitioner was seized by the investigator. It has been produced before the learned Magistrate. The investigation is not complete yet. The petitioner filed an application that the passport may be released to her. According to her, she is innocent of the alleged crime. She had not given her passport to the 1st accused with any contumacious or culpable intention. In these circumstances, the passport, it was prayed, may be released to the petitioner.

2. The learned Magistrate by the impugned order rejected the application in the wake of stout opposition by the Public Prosecutor. Investigation has not been complete. At this stage,

release of the passport to the petitioner would frustrate a proper and effective investigation. At this stage, the passport may not be released. If passport is released, the petitioner may not be available to be proceeded against. In these circumstances, it was prayed that the passport may not be released and the said prayer was accepted by the learned Magistrate.

3. I have heard the learned counsel for the petitioner and the Public Prosecutor. The investigation is not complete yet. The learned Public Prosecutor submits that investigation is almost complete and final report will be filed shortly. Thereafter, it shall be open to the petitioner, to apply afresh before the learned Magistrate for release of the passport showing specifically reasons as to why the passport is to be released to her. The learned Magistrate must pass appropriate orders.

4. In the result, this Crl.M.C is, dismissed with the above observations. However, I may hasten to observe that even if final report is not filed within a period of two months, it shall be open to the petitioner to make a fresh application for release of her passport as indicated above.

(R.BASANT, JUDGE)

rtr/-

