

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

THURSDAY, THE 20TH DAY OF JULY 2023 / 29TH ASHADHA, 1945

CRL.MC NO. 2661 OF 2023

AGAINST CRIME NO.1710/2014 OF SAKTHIKULANGARA POLICE STATION
NOW PENDING AS UN NO.53/2019 ON THE FILES OF THE JUDICIAL
MAGISTRATE OF FIRST CLASS -II, KOLLAM

PETITIONERS/ACCUSED :

MINIMOL
AGED 45 YEARS
D/O KUMARI, KOOTTITHARA PADINJATTATHIL,
SAKTHIKULANGARA, PIN - 691581

BY ADV SREERAJ M.D.

RESPONDENTS/COMPLAINANT & DE-FACTO COMPLAINANT :

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
PIN - 682031
- 2 STATION HOUSE OFFICER,
SAKTHIKULANGARA POLICE STATION,
KOLLAM DISTRICT, PIN - 691581
- 3 UNION OF INDIA
REPRESENTED BY SECRETARY TO MINISTRY
OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA,
E BLOCK, CENTRAL SECRETARIAT NEW DELHI,
PIN - 110001

SRI. VIPIN NARAYAN, SR. PP ,
SMT. MINI GOPINATHAN, FOR DSGI

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
20.07.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioner herein is a lady. She is arrayed as accused in Crime No.1710 of 2014 of the Sakthikulangara police station registered for the offenses punishable under Section 12(1)(b) of Indian Passport Act, 1962. Records reveal that the aforesaid crime was registered on 02.12.2014 on the allegation that the petitioner herein had secured a passport bearing No.1+5814746 on 28.7.2009 and thereafter, in violation of the provisions of the Passports Act, traveled abroad.

2. The learned counsel appearing for the petitioner submitted that before registering the crime, the petitioner was working as a housemaid in Dubai. It is also submitted that though the crime was registered on 02.12.2014, the police have not filed the final report. According to the learned counsel, the attempt made by the petitioner herein for getting viable employment abroad is defeated because of the pendency of the criminal proceedings. It is on these assertions that this petition is filed seeking to quash Annexure A1 FIR and all further proceedings pursuant thereto.

3. The learned Public Prosecutor submitted that the investigation was conducted, and a UN report was submitted before the learned Judicial First Class Magistrate Court-II, Kollam, on 16.5.2019. In the report, it has been

stated that though repeated requests were made to the FRRO to make documents available showing that the petitioner had traveled overseas through the Bombay Airport, no such documents were received. It is further submitted that as and when materials are obtained to substantiate the case of the prosecution, they shall reopen the investigation and, after completion of an investigation, file a suitable report before the learned Magistrate.

4. The learned DSGI submitted that at no point of time the Station House Officer has requested the FRRO for getting the documents with regard to the travel of the petitioner herein from Mumbai. It is also submitted that the records of travel are available with the Assistant Director, Central Foreigners Bureau.

5. I have considered the submissions advanced.

6. The records reveal that the crime was registered in the year 2014 on the premise that the petitioner had furnished false records to procure the passport. I find that the petitioner had approached the learned Magistrate and had filed C.M.P. No.1315/2021 in UN No.53/2019, and by order dated 01.11.2021, the petitioner was granted permission to travel abroad for a period of five years. Several other conditions were imposed by the learned Magistrate while allowing the request made by the petitioner.

7. Having considered the facts and circumstances, I am satisfied that the pendency of the report, UN No.53/2019, will stand in the way of the petitioner in securing better employment overseas. In spite of the passage of a decade, the police have not been able to collect the materials linking the petitioner with the crime. Though the investigating officer has stated before this Court that attempts were made to collect the materials from the FRRO, the learned DSGI submitted that no such attempt was made. The petitioner's rights to travel abroad are being impeded by the pendency of the crime. She is a mother of two children and her contention is that the pendency of the UN report is impeding her ability to secure better employment as the reference to the crime in the order passed by the learned Magistrate deters her prospective employers from accommodating her in a better job. The Supreme Court in **Sreenivas Gopal v. Arunachal Pradesh** (1988 (4) SCC 36) held that quick justice is a sine qua non of Article 21 of the Constitution of India. This court in **Oommen Koshy v. State of Kerala** [1989 (2) KLT 384] held that keeping a person in suspended animation for more than 10 years without any cause cannot be within the spirit of the procedure established by law. If the final report had been laid before the court, the petitioner could have exhausted her

Crl.M.C No.2661 of 2023

5

remedies in accordance with law. More pertinently, the petitioner has no role to play on the failure of the investigating officer in submitting a positive report. In that view of the matter, I am satisfied that the petitioner has made out a good case for interference.

In view of the discussion above, this petition is allowed. Annexure A1 FIR in Crime No.1710 of 2014 of the Sakthikulangara police station and all further proceedings in UN No.53/2019 on the file of the Judicial Magistrate of the I Class, II Kollam are quashed.

Sd/-
RAJA VIJAYARAGHAVAN V,
JUDGE

NS

Crl.M.C No.2661 of 2023

6

APPENDIX OF CRL.MC 2661/2023

PETITIONER ANNEXURES :

Annexure A1	CERTIFIED COPY OF THE FIR DATED 02.12.2014
Annexure A2	CERTIFIED COPY OF UN REPORT FILED BY THE SAKTHIKULANGARA POLICE DATED 16.05.2019
Annexure A3	TRUE COPY OF THE ORDER DATED 1/11/2021 OF JUDICIAL FIRST CLASS MAGISTRATE COURT II, KOLLAM
Annexure A4	RELEVANT PORTIONS OF THE PASSPORT NO U5568673