

Kabeer Vs. Union of India

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SooperKanoon Citation : sooperkanoon.com/1011258

Court : Kerala

Decided On : Jan-07-2013

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Kabeer

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON MONDAY, THE 7TH DAY OF JANUARY 2013 17TH POUSHA 193 WP(C).No. 28216 of 2012 (B) ----- PETITIONER(S): ----- KABEER, AGED 3 YEARS S/O.KOCHU MOHAMMAD, SUNEER MANZIL, VADUTHALA JETTY(PO), AROOKUTTY, ALAPPUZHA-688 535. BY ADV. SRI.NIDHI BALACHANDRAN RESPONDENT(S): ----- 1. THE UNION OF INDIA, REPRESENTED BY IT'S SECRETARY TO GOVERNMENT, DEPARTMENT OF MINISTRY OF EXTERNAL AFFAIRS, PATIALA HOUSE, NEW DELHI-110 001.

2. THE PASSPORT OFFICER, REGIONAL PASSPORT OFFICE, PANAMPILLINAGAR, ERNAKULAM-682 036.

3. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. R1 BY SRI.P.PARAMESWARAN NAIR,ASG OF INDIA R1 & R2 BY ADV. SRI.T.SANJAY, CGC R3 BY GOVERNMENT

PLEADER SRI.GEORGE MECHERIL (SR.) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 28216 of 2012 APPENDIX PETITIONER'S EXHIBITS: EXT.P1: COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT DATED 6 8.2012 TO THE PETITIONER. RESPONDENT'S EXHIBITS: ANNEXURE R2(a): COPY OF THE CIRCULAR DATED 05 06.2012. /TRUE COPY/ P.A. TO JUDGE VPV P.R. RAMACHANDRA MENON J.

~~~~~ W.P.(C) No. 28216 of 2012  
~~~~~ Dated, this the 7th day of January, 2013  
JUDGMENT The petitioner has approached this Court seeking for a direction to be issued to the second respondent to take appropriate action for issuance of passport to the petitioner, since the application preferred by him was turned down referring to pendency of a criminal case, which according to the petitioner is no more pending and the writ petition for appropriate relief.

2. Respondents 1 and 2 have filed a statement, seeking to justify their action, particularly with reference to Crime No. 19 of 2007 of Poochakkal Police Station in respect of offences under Sections 323, 324 r/w s. 34 of IPC. The verification made by the concerned respondents sustained the reason for rejection for application of passport. Reliance is sought to be placed on Annexure R2(a) Circular as well. W.P.(C) No. 28216 of 2012 :

2. :

3. The learned counsel for the petitioner submits that, it is true that a crime was registered against the petitioner and the case was numbered as C.C. No. 147 of 2009, which was pending before the Judicial First Class Magistrate's Court II, Cherthala. But in the course of further developments, the said case was taken up and considered along with C.C. No. 299 of 2007, preferred at the instance of the wife of the petitioner, who was the defacto complainant, and both the cases were compounded under Section 320 (8) of Cr. P.C. acquitting the concerned accused. Even though the petitioner tried his level best to get a certified copy of the verdict, it was given to understand that, in the process of shifting of Court premises, the

concerned files happened to be misplaced, which made the petitioner to approach this Court for immediate intervention.

4. When the matter came up for consideration on 28.11.2012, the petitioner was required to implead the District Police Chief, Alappuzha, who in turn stands impleaded, on filing I.A. 16426 of 2012, as additional 4th respondent. W.P.(C) No. 28216 of 2012 :

3. :

5. The learned Government Pleader appearing for the 3rd and the additional 4th respondent submits that the crime registered against the petitioner, as referred to by the respondents 1 and 2 leading to C.C. 147 of 2009, in view of further developments came to be compounded and the petitioner has been acquitted. The learned Government Pleader submits that, as on date, no criminal case is pending against the petitioner.

6. The learned Central Government Counsel appearing for the respondents 1 and 2 submits that the application preferred by the petitioner has already been considered and the concerned file stands closed. But in view of the submission now made by the learned Government Pleader for the State, if the petitioner submits a fresh application through on-line, the same will be caused to be considered.

7. In the above circumstances, the submissions made by the learned Government Pleader and the learned Central Government counsel are recorded. The Writ Petition is W.P.(C) No. 28216 of 2012 :

4. : disposed of, relegating the petitioner to file a fresh application for issuance of passport through on-line, within two weeks from the date of receipt of a copy of this judgment, on which event, the second respondent shall consider the same in accordance with law and in view of the position as mentioned above, and pass appropriate orders in this regard, at the earliest, at any rate, within one month from the date of receipt of the application. The Writ Petition is disposed of. sd/- P. R. RAMACHANDRA MENON, (JUDGE) kmd

