

Vinodkumar Vijayan vs State of Kerala

Vinodkumar Vijayan vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1357283

Court : Kerala

Decided On : Apr-28-2023

Judge : Honourable Mr.Justice Basant Balaji

Appeal No. : Crl.MC/3401/2023

Appellant : Vinodkumar Vijayan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
FRIDAY, THE 28TH DAY OF APRIL 2023 / 8TH VAISAKHA, 1945
CRL.MC NO. 3401 OF 2023 PETITIONER: VINODKUMAR VIJAYAN
AGED 41 YEARS S/O VIJAYAN NAIR RESIDING AT VIJAYA BHAVAN,
T C 6/1886, KOOTTU ROAD, ILIPPODE, VATTIYOORKKAVU,
THIRUVANANTHAPURAM, PRESENTLY RESIDING AT FLAT NO.20,
MAYSLOON BUILDING, AL QASIMIA, SHARJAH, U.A.E. BY ADVS.
NIHARIKA HEMA RAJ ADITYA DEV RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI- 682031 2 THE

PASSPORT OFFICER REGIONAL PASSPORT OFFICE, SNSM BUILDING - 3, 4TH FLOOR, KAITHAMUKKU, PETTA ROAD, THIRUVANANTHAPURAM - 695024 3 ADDL.R3 CONSULATE GENERAL OF INDIA DUBAI (UAE), AL HAMRIYA DIPLOMATIC ENCLAVE, P.O.Box 737, DUBAI, UAE IMPLEADED VIDE ORDER DATED 28.04.2023 IN CRL.M.A.NO.1/2023 SRI.S MANU DSGI, SMT.BINDU O.V., GOVERNMENT PLEADER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.04.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 3401 OF 2023 2

ORDER

The petitioner is the first accused in Crime No.733 of 2011 of Poojappura Police Station, alleging offences under Sections 323, 324 and 294(b) read with Section 34 of the Indian Penal Code which was pending before the Additional Chief Judicial Magistrate

Court, Thiruvananthapuram, as C.C.No.683 of 2011. As per Annexure 1 judgment of the Additional CJM, Thiruvananthapuram dated 18.11.2019, the trial was conducted in respect of accused Nos.2 to 4 and were acquitted under Section 248(1) Cr.P.C. The main reason for acquittal was that the prosecution was failed to prove the guilt of the accused and the presence of CW1 to CW7

could not be procured in spite of repeated coercive steps. The petitioner is now employed in UAE at Emirates Islamic Bank and is residing there with his wife and minor child, who is a student of Class XI. The passport of the petitioner is due to expire on 01.05.2023 and he has made an application for renewal of the passport. The application has been processed and forwarded for police verification. He holds a resident visa and his daughter also holds a visa too. The petitioner submits that he is ready and willing to appear before the Additional Chief Judicial Magistrate Court, CRL.MC NO. 3401 OF 2023 3 Thiruvananthapuram, and stands for trial. If the passport is not renewed, the education of his daughter would suffer and and they may be deported. On these grounds, petitioner prays that a direction

be issued to the second respondent to renew Annexure 2 passport of the petitioner.

2. Heard Smt.Niharika Hema Raj, learned counsel for the petitioner, Smt.O.V.Bindu, learned public prosecutor for the first respondent and the learned DSGI for the second and third respondents.

3. The counsel for the petitioner has relied upon the

judgment of this Court in Crl.M.C.No.839 of 2023 in which a

student pursuing his BBA course in Paris was involved in four crimes which were pending before the Magistrate Court, had approached this Court with a similar prayer to re-validate the passport for a period of one year. This Court after considering the issue has held as follows : There will be a direction to the Indian Embasst at Paris to re-validate the passport of the petitioner for a

further period of one year from 01.01.2023. However, immediately on arrival in India, petitioner shall surrender the passport before the JMFC-I, Attingal, which shall be retained until disposal of four cases.

4. Having considered the facts and circumstances of the CRL.MC NO. 3401 OF 2023 4 case, I deem it proper that similar direction can be issued in this case also. In the result, the following directions are issued.

5. There will be a direction to the third respondent to renew

the passport of the petitioner for a period of one year from 01.05.2023. The petitioner shall immediately come back to India and surrender his passport before the Additional Chief Judicial Magistrate Court, Thiruvananthapuram, where C.C.No.683 of 2011 is pending. The Additional CJM, Thiruvananthapuram, shall retain the passport till the trial is over. The petitioner is at liberty to move the court below for expeditious disposal of the case pending before it. Crl.M.C. stands disposed of. Sd/- BASANT BALAJI JUDGE csl CRL.MC NO. 3401 OF 2023 5 APPENDIX OF CRL.MC 3401/2023 PETITIONER ANNEXURES Annexure 1 TRUE COPY OF THE JUDGMENT DATED 18.11.2019 OF THE HON'BLE

ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT,
THIRUVANANTHAPURAM IN C.C. NO. 683/2011

Annexure 2 TRUE COPY OF THE PASSPORT OF THE PETITIONER DATED 02.05.2013 Annexure 3 A TRUE COPY OF THE PASSPORT FEE RECEIPT ISSUED BY THE BLS INTERNATIONAL INDIAN PASSPORT AND VISA SERVICE CENTER DATED 12.04.2023 Annexure 4 TRUE COPY OF THE UNITED ARAB EMIRATES RESIDENCE VISA DATED 23.02.2022 ISSUED TO THE PETITIONER Annexure 5 TRUE COPY OF THE UNITED ARAB EMIRATES RESIDENCE VISA DATED 04.10.2020 OF THE PETITIONER'S DAUGHTER

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com