

Amal @ Achu, vs State of Kerala,

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Court : Kerala

Decided On : Mar-14-2022

Judge : Honourable Mr. Justice K.Haripal

Appeal No. : Crl.MC/446/2022

Appellant : Amal @ Achu,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE K.HARIPAL MONDAY,
THE 14TH DAY OF MARCH 2022 / 23RD PHALGUNA, 1943 CRL.MC
NO. 446 OF 2022 C.M.P. NO. 2513/2021 IN C.P. NO. 42/2019 OF
JUDICIAL FIRST CLASS MAGISTRATE COURT, ATTINGAL
(TEMPORARY)

PETITIONER/PETITIONER/1ST ACCUSED: AMAL @ ACHU, AGED 28
YEARS S/O. SAMBASIVAN, THOPPIL VEEDU, KUNNUMMEL DESOM,
PAZHAYA KUNNUMMEL VILLAGE, THIRUVANANTHAPURAM - 695
341. BY ADV. LATHEESH SEBASTIAN(K/1617/1999)90
RESPONDENTS/RESPONDENTS/STATE & COMPLAINANT: 1 STATE
OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH

COURT OF KERALA, ERNAKULAM-682031. 2 THE STATION HOUSE OFFICER, KILIMANOOR POLICE STATION, KILIMANOOR, THIRUVANANTHAPURAM-695601.

BY ADV. SRI. VIPIN NARAYANAN, SENIOR PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14.03.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.M.C.No.446 OF 2022 2

ORDER

Petitioner is the first accused in Crime No. 1850/2018 of Kilimanoor police station where offence under Sections 294(b), 341, 323, 324, 326, 307 read with 34 of the Indian Penal Code is alleged against the petitioner and two others. On conclusion of investigation, charge sheet has been laid and the committal court has taken cognizance as C.P. No. 42/2019. When he moved an application under Section 22 of the Passports Act seeking permission to obtain a passport, by Annexure A3 order dated 10.09.2021, on the premise that the case is triable exclusively by the Court of Sessions, the application has been dismissed. Challenging the correctness of this order, the petitioner has moved this Court under Section 482 of the Code of Criminal Procedure.

2. Heard the learned counsel for the petitioner and also the learned Senior Public Prosecutor.

3. According to the learned counsel for the petitioner, the other accused have not yet appeared in the committal CrI.M.C.No.446 OF 2022 3

proceedings. The reason that it is triable exclusively by the Court of Sessions is not a good ground for rejecting the application. I am in agreement with the proposition of law submitted by the learned counsel for the petitioner. As held by this Court in Asok Kumar v. State of Kerala [2009(2) KLT 712], the committal court has ample jurisdiction to consider

an application for granting permission to apply for a passport. Issuing a passport is different from granting permission to go abroad. Now the petitioner only wants to apply for a passport which need not be resisted by the court.

4. Therefore, Annexure A3 order cannot be sustained

and the same is quashed. The learned Judicial First Class Magistrate, Attingal shall consider the application afresh within a period of one month from the date of receipt of a copy of this

order.

The CrI. M.C. is disposed of as above. Sd/- K.HARIPAL JUDGE DCS/14.03.2022
CrI.M.C.No.446 OF 2022 4 APPENDIX PETITIONER ANNEXURES ANNEXURE
A1 TRUE COPY OF THE FINAL REPORT IN CRIME NO. ANNEXURE A2 TRUE
COPY OF THE CMP NO.2513/2021 OF TEMPORARY JFMC, ATTINGAL.
ANNEXURE A3 TRUE COPY OF THE ORDER OF THE TEMPORARY JFMC,
ATTINGAL DATED 10/09/2021 IN CMP NO.

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