

Rithul, vs State of Kerala,

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Court : Kerala

Decided On : Nov-30-2021

Judge : Honourable Mrs. Justice M.R.Anitha

Appeal No. : Crl.MC/5372/2021

Appellant : Rithul,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE M.R.ANITHA
TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH
AGRAHAYANA, 1943 CRL.MC NO. 5372 OF 2021 CRIME NO.653/2018
OF Pazhayannur Police Station, Thrissur CMP 2596/2021 IN CC
520/2020 OF JUDICIAL MAGISTRATE OF FIRST CLASS
,WADAKKANCHERRY

PETITIONER/PETITIONER/ACCUSED NO.8 RITHUL, AGED 22 YEARS
S/O. SIVADASA, KUZHUPULLY HOUSE, EDASSEY, VATANAPPILLY,
THRISSUR. P.VIJAYA BHANU (SR.) P.M.RAFIQ M.REVIKRISHNAN
AJEESH K.SASI MITHA SUDHINDRAN POOJA PANKAJ SRUTHY N.
BHAT RAHUL SUNIL

RESPONDENTS/RESPONDENTS/COMPLAINANT 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031. 2 THE REGIONAL PASSPORT OFFICER, REGIONAL PASSPORT OFFICE, PANAMPILLY NAGAR, COCHIN 682 036. P.VIJAYAKUMAR S.MANU PP SRI.REJIT GEORGE (Sr.) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.11.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated : 30th November, 2021

1. This Crl.M.C has been filed against the order in C.M.P.2596/2021 in

C.C.520/2020 on the file of Judicial First Class Magistrate Court, Wadakanchery dated 1.11.2021. Petitioner is the 8 th accused in Crime No.653/2018 of Pazhayannur police station which has been registered for the offence punishable under Sections 143, 147, 148, 341, 323, 324, 354 r/w 149 IPC.

2. According to the petitioner, he is pursuing a course of Fashion

Designing at the Marangoni Fashion Institute (Institute of Marangoni), Via Pietro Verri, 4, 20121, Milano MI, Italy. The course is spread over three years of which first year has been completed at the campus in Mumbai. The remaining course is to be completed at one of the international campuses of the Institution at London, Paris or Milan. Hence he filed C.M.P.2596/2021 for permission to apply for a passport. As per Annexure-B order , the learned Magistrate granted permission to apply for passport for one year. The passport should have a validity of at least three years. Otherwise authorities abroad will be constrained from issuing student Visa which is required for a period of two years.

3. Notice was issued to the respondent. Hears both sides.

4. Petitioner produced additional documents, Annexure-C, photo

copy of the course brochure for the Undergraduate Programme on Fashion Styling at Marangoni Fashion Institute. Annexure-D is the printout of the relevant page of the website maintained by the Marangoni Fashion Institute, Mumbai. Annexure-E is the e-mail communication sent from the Sales Supervisor at Marangoni Fashion Institute, along with the attached presentation of the per- requisites for progressing abroad for year-2 of the course.

5. Annexure-D would reveal that after first level (year) of

undergraduate study participants have to apply for entry to the second year of a 3-year undergraduate programme at Institute of Marangoni's European schools in Italy, Milano, Firenze or Paris.

6. So the documents produced from the side of the petitioner would

show that the petitioner has to undergo three years course in total for completing the course of Fashion Designing at Marangoni Fashion Institute. In the said circumstances permission for applying for passport is to be at least for three years.

7. The learned counsel for the petitioner also would submit that the

petitioner would be coming down intermittently so that the trial of the case will not be hindered by his continuous absence. Petitioner is the 8th accused and is 22 years old.

8. In this context it is relevant to quote *Ashok Kumar v. State of Kerala* [2009 (2) KLT 712] it has been held that when a criminal case is pending, permission of the court is necessary for applying the

passport. In *Mohammed Shaffi v. Regional Passport Officer* [2017 (2) KHC 484], it has been held that concerned criminal court is vested with ample powers to issue direction for providing passport for a specific

period. In *Thadevoose Sebastian v. The Regional Passport Office and Others* [ILR 2021 (4) Ker 453], it has been held that right to travel beyond the frontiers of our country is a facet of personal liberty.

9. In the above backdrop, the Crl.M.C allowed. The impugned order

passed by the learned Magistrate is set aside. The Magistrate is directed to reconsider the application for enabling the petitioner to complete the studies by permitting to apply for passport for three years by imposing necessary conditions for ensuring presence of petitioner during trial of the case.

Sd/- M.R.Anitha, Judge Mrcs APPENDIX OF CRL.MC 5372/2021 PETITIONER ANNEXURE Annexure A PHOTOCOPY OF THE CERTIFICATE OF ADMISSION ISSUED TO THE PETITIONER BY THE MARANGONI FASHION INSTITUTE. Annexure B PHOTOCOPY OF THE ORDER DATED 01.10.2021 IN C.M.P. 2596/201 IN C.C. 520/20 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, WADAKKANCHERY.

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