

Kerala High Court

Radha @ Radhamani @ Radhachi vs State Of Kerala on 30 July, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

CrI.MC.No. 1889 of 2009()

1. RADHA @ RADHAMANI @ RADHACHI,
... Petitioner

Vs

1. STATE OF KERALA, REPRESENTED BY THE
... Respondent

2. THE DEPUTY SUPERINTENDENT OF POLICE,

For Petitioner :SRI.JOHN VARGHESE

For Respondent :PUBLIC PROSECUTOR

The Hon'ble MR. Justice M.SASIDHARAN NAMBIAR

Dated :30/07/2009

O R D E R

M.Sasidharan Nambiar, J.

CrI.M.C.No.1889 of 2009

ORDER

Petitioner is the third accused in Crime No. 88/2008 of CBCID, SIG-III, Kozhikode. Case was registered for offences under Sections 406, 465, 468, 471, 477 and 120B read with Section 34 of Indian Penal Code. As per Annexure-A1 order dated 16.9.2008, this Court granted bail to the petitioner on conditions. The first condition was that petitioner shall surrender her passport within seven days of her release from custody, before the Magistrate Court concerned. Petitioner surrendered the passport and she was released on bail. Under Annexure-A3 order dated 8.1.2009, Condition Nos.2 and 3 in Annexure-A1 order was lifted, making it clear that petitioner is entitled to approach the Magistrate for return of the passport. Petitioner filed C.M.P.No.159/2009 before the Magistrate for getting the passport released. Under Annexure-A4 CRMC 1889/09 order, learned

Magistrate dismissed the petition holding that investigation is in progress and hence, if the passport is released, she would go abroad and it would adversely affect the investigation. This petition is filed under Section 482 of Code of Criminal Procedure to quash Annexure-A4 order and to release the passport.

2. Learned counsel appearing for the petitioner and learned Public Prosecutor were heard.

3. Learned counsel appearing for the petitioner submitted that daughter of the petitioner is settled in Brunei and she has to visit her daughter and therefore, the passport is to be released. Learned counsel submitted that petitioner is prepared to co-operate with the investigation and will return to India within six months and if necessary, she will return earlier, for the purpose of investigation and in such circumstances, the passport be released.

CRMC 1889/09

4. Learned Public Prosecutor submitted that fifth accused is yet to be apprehended and report from the Forensic Science Laboratory is yet to be received and therefore, for further investigation, interrogation of the petitioner may be necessary and if the passport is released, petitioner may not be available for further interrogation and will not even be available for trial and in such circumstances, the passport cannot be released.

5. Petitioner was granted bail as early as on 16.9.2008. There was a direction to the petitioner to appear before the Investigating Officer on every Monday until further orders and it was lifted only on 31.10.2008 and even there, petitioner was directed to appear before the Investigating Officer on the first Monday of every month. In such circumstances, I find that on the ground of questioning the petitioner, her passport need not be retained. If the apprehension is that petitioner will not be available for interrogation or trial, CRMC 1889/09 sufficient conditions could be imposed.

In such circumstances, Annexure-A4 order is quashed. Judicial First Class Magistrate-I, Ernakulam is directed to release the passport to the petitioner, on filing an undertaking before the court to the effect that she is prepared to appear before the Investigating Officer as and when necessary with sufficient notice and also undertaking that she will appear before the court at the time of trial. Petitioner shall return to India within six months from the date of leaving, after getting the passport released.

Petition is disposed.

30th July, 2009 (M.Sasidharan Nambiar, Judge) tkv