



CRL.MC NO. 8310 OF 2024

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2024:KER:76825

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 16TH DAY OF OCTOBER 2024 / 24TH ASWINA, 1946

CRL.MC NO. 8310 OF 2024

CRIME NO.2064/2020 OF THODUPUZHA POLICE STATION, IDUKKI

CC NO.1669 OF 2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS

-I (FOREST OFFENCES), THODUPUZHA

PETITIONER/ACCUSED:

ABHIRAMI GIRISH
AGED 26 YEARS
D/O.GIREESH V.R., VENGATHANATHU HOUSE, VENGALLOOR
POST, THODUPUZHA, IDUKKI DISTRICT, PIN - 685608

BY ADVS.
R.SREEHARI
HAMZA A.V.
APARNA M.P.

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031
- 2 STATION HOUSE OFFICER
THODUPUZHA POLICE STATION, THODUPUZHA POST, IDUKKI
DISTRICT, PIN - 685584

BY PUBLIC PROSECUTOR SRI.SANAL P RAJ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
16.10.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



CR

ORDER

Dated this the 16th day of October, 2024

Accused in C.C.No.1669/2021 on the files of the Judicial First Class Magistrate Court-I, (Forest Offences), Thodupuzha, has filed this petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking the relief as under:

Direct the 2nd respondent to issue Non-Involvement in Offences Certificate (Police Clearance Certificate) to the petitioner, who is the accused in C.C.No.1669/2021 of the court of the Judicial Magistrate of First Class-I Thodupuzha, (arising out of Crime No.2064/2020 of Thodupuzha Police Station, Idukki District) in accordance with the dicta laid down by this Hon'ble Court in 2023 KHC 254 [Sasikumar -Vs- State of Kerala] (Annexure 6) and in Order dated 06/03/2024 passed in Crl.MC.No.905/2024 (Annexure 7) within a reasonable time frame as fixed by this Hon'ble Court.

2. Heard the learned counsel for the petitioner and



the learned Public Prosecutor. Perused the decisions placed and Section 59 of the Kerala Police Act, 2011 (for short, 'the KP Act' hereinafter).

3. It is submitted by the learned counsel for the petitioner that, the petitioner, who is the accused in the above case, alleging commission of offences punishable under Sections 341, 324 and 323 of the Indian Penal Code (for short, 'the IPC' hereinafter), a technically qualified person, has secured employment as Mechanic Aircraft in AI Engineering Services Ltd. One of the conditions for the said appointment is that, upon joining service, the petitioner shall produce a Police Clearance Certificate from the competent authority. Accordingly, the petitioner submitted an application on 19.9.2024, for issuance of a Non-Involvement in Offences Certificate (Police Clearance Certificate) from the 2nd respondent, through online mode. In response to the said application, as on 25.9.2024, the 2nd respondent issued a Rejection Notice, as Annexue 5. It is submitted that, in the decision of this Court in **Sasikumar v. State of Kerala** reported in [2023 KHC 254], in paragraph Nos.8 and 9, this Court considered the impact of Section 59 of the KP Act and held as under:

8. Further, it is not the intention of S.59 of the Kerala



Police Act, 2011 that whenever a criminal case is pending against an accused, he should be denied the opportunity even to attempt to obtain an employment, if a certificate from the police is required. There would be cases of offences which may have no bearing on the nature of employment.

9. In the above view of the matter, I direct the 3rd respondent to issue a police clearance certificate as contemplated under S.59 of KP Act specifying the existence of the criminal case along with its number, the type of offences, and the name of the court. The needful shall be done, within a period of three weeks from the date of receipt of a copy of this judgment.

It is also pointed out that, in a subsequent decision of this Court in **Shibu K.R. v. State of Kerala** (Crl.M.C.No.905/2024), in paragraph No.3, this Court again considered Section 59 of the KP Act and held as under:

3. Though Section 59 of the Kerala Police Act, 2011 provides for the issuance of a Non Involvement Offences Certificate (NIO Certificate) this Court has directed in several instances to issue a certificate reflecting whether the petitioner is involved in a crime or not. Though the statute uses the nomenclature Non Involvement certificate, issuing a certificate showing the involvement of the accused in a crime would not cause any prejudice and, on the other hand, would only be



beneficial to the proposed employer.

4. Relying on the above decisions, the learned counsel for the petitioner pressed for the reliefs granted in Crl.M.C.No.905/2024, a similar case, with direction to the 2nd respondent to issue a certificate specifying the existence of any criminal case/s against the petitioner with their numbers, nature of offence/offences and the Court where the cases are pending, at the earliest.

5. It is pointed out by the learned Public Prosecutor that, Section 59 of the KP Act does not contemplate issuance of a certificate showing the details of the crime and what is contemplated therein is, issuance of a certificate to the effect that a person is not involved in any offence, after suitable enquiry and on finding that the applicant has no involvement in criminal cases.

6. Having considered the rival contentions, it is apposite to refer Section 59 of the KP Act, which deals with power of the police to give certificates of Non-Involvement in Offences. Section 59 of the KP Act provides as under:

59. Police to give certificates of non-involvement in offences.- *The District Police Chief or the Station House Officer may, on the*



application of any person, give a certificate to the effect that such person is not involved in any offence after suitable enquiries and after realising such charges as may be fixed by the Government in this regard.

7. In the decision in **Shibu K.R.**'s case (supra), this Court held that, *though the statute uses the nomenclature Non Involvement certificate, issuing a certificate showing the involvement of the accused in a crime would not cause any prejudice and, on the other hand, would only be beneficial to the proposed employer.*

8. Here, evidently, as per Annexure 5 Rejection Notice, dated 25.9.2024, it is stated that, *'With regard to your above referred application, it is hereby informed that Non-Involvement in Offences Certificate can't be issued to you due to the following reasons'* and the reasons stated is, involvement of the petitioner in Crime No.2064/2020 alleging commission of offences punishable under Sections 341, 324 and 323 of the IPC (the instant crime). According to the learned counsel for the petitioner, Annexure 5 is not sufficient to meet the requirement of the petitioner and therefore, such certificate, as directed in **Shibu**



K.R.'s case (supra) may be ordered.

9. As found by this Court in **Shibu K.R.**'s case (supra), Section 59 of the KP Act, does not contemplate issuance of certificate showing involvement of offence/s. It is noticed that, issuance of Non-Involvement in Offences Certificate emerges, when a person wants to get employment or any other assignment, for which, such a certificate is necessary, as insisted by the Authority concerned. Therefore, if a blanket certificate, rejecting issuance of Non-Involvement in Offences, on the ground of pendency of crime/s, may prejudice the right of the accused person/s. To put it otherwise, even though there may be instances where a person applied for Non-Involvement in Offences Certificate, got involved in crimes of trivial nature, which the Authority insisting the certificate, can ignore the same because of its trivial stature. That is to say, if the offence/s is/are so trivial, then, mere pendency of the case/s may not be a reason for the person, who applied for the certificate, to get expelled from the employment or assignment or to find him as unsuitable. Similarly, when the offences are grave in nature, the employer/Authority can take an appropriate decision in terms of the certificate.

10. In such circumstances, even though Section 59 of



the KP Act does not provide issuance of a certificate detailing crimes involved by the petitioner, it is well and good in the interest of justice to issue a certificate, specifying the existence of criminal case/s against the applicant with their numbers, nature of offence/offences with section/s of law, the Court where the cases are pending. The certificate shall state the details of the cases disposed off relating to the applicant with the result thereof, specifying conviction, acquittal, discharge, quashment, etc., so that the Authority insisted production of the certificate, to take an appropriate decision.

In view of the matter, this Criminal Miscellaneous Case stands allowed, directing the 2nd respondent to issue Non-Involvement in Offences Certificate (Police Clearance Certificate) to the petitioner, specifying the details mentioned in paragraph No.10 as above, within a period of three weeks from today, without fail, so as to address the grievance of the petitioner.

H/O.

Sd/-

**A. BADHARUDEEN
JUDGE**



APPENDIX OF CRL.MC 8310/2024

PETITIONER'S ANNEXURES

- ANNEXURE 1 TRUE COPY OF THE FIRST INFORMATION REPORT DATED 03/09/2020 IN CRIME NO.2064/2020 OF THODUPUZHA POLICE STATION, IDUKKI DISTRICT
- ANNEXURE 2 TRUE COPY OF THE FINAL REPORT IN CRIME NO. 2064/2020 OF THODUPUZHA POLICE STATION, IDUKKI DISTRICT, FILED BEFORE THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS -I , THODUPUZHA, DATED 14/09/2020
- ANNEXURE 3 TRUE COPY OF THE LETTER OF APPOINTMENT DATED 23/09/2024, ISSUED BY PROFESSIONAL HOSPITALITY SERVICES PVT.LTD. IN FAVOUR OF THE PETITIONER
- ANNEXURE 4 TRUE COPY OF THE RECEIPT DATED 19/09/2024, EVIDENCING THE RECEIPT OF APPLICATION (WITH APPLICATION NO.15294021-2024-07-00568) SUBMITTED BY THE PETITIONER BEFORE THE THODUPUZHA POLICE STATION
- ANNEXURE 5 TRUE COPY OF THE REJECTION NOTICE DATED 25/09/2024 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER WITH RESPECT TO THE APPLICATION SUBMITTED BY THE PETITIONER FOR ISSUANCE OF NON-INVOLVEMENT IN OFFENCES CERTIFICATE (POLICE CLEARANCE CERTIFICATE)
- ANNEXURE 6 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT REPORTED IN 2023 KHC 254 (SASIKUMAR -VS- STATE OF KERALA)
- ANNEXURE 7 TRUE COPY OF THE ORDER DATED 06/03/2024 PASSED IN CRL.M.C.NO.905/2024 BY THE HON'BLE HIGH COURT OF KERALA

RESPONDENTS' ANNEXURES : NIL