

Court No. - 11

Case :- APPLICATION U/S 482 No. - 12343 of 2023

Applicant :- Mohd. Shadab Siddiqui

Opposite Party :- Union Of India Thru. Secy. Ministry Of External Affairs N.Delhi And Ors.

Counsel for Applicant :- Mohd. Hayan Hasan

Counsel for Opposite Party :- A.S.G.I.,G.A.

Hon'ble Saurabh Lavania,J.

Heard Sri Mohd. Hayan Hasan, learned counsel for the applicant, Sri S.B.Pandey, learned Senior Advocate assisted by Sri Varun Pandey, Advocate and learned AGA for the State.

By means of present application under Section 482 Cr.P.C. the applicant has assailed the order dated 10.10.2023 passed by the opposite party No.4-Additional Chief Judicial Magistrate, Ist, Court No. 25, Lucknow, whereby the application preferred by the applicant seeking 'No Objection Certificate', (in short "NOC") for the purposes of renewal/issuance of passport, which was expired on 08.12.2021, has been rejected.

The submission of learned counsel for the applicant while assailing the impugned order dated 10.10.2023 is to the effect that the applicant is working in a Multinational Company i.e. Disney+ Hotstar as Vice President, Engineering and on account of his job profile he has to frequently visit abroad including the USA and on account of some matrimonial dispute, an FIR No. 0268 dated 22.12.2020 was lodged by Rashma Saleem (wife of applicant) and upon due investigation, the charge sheet was filed by the Investigating Officer before the Court concerned, upon which, cognizance has already been taken by the trial court and presently the Case No. 7523 of 2022, Case Crime No. 0268, under Sections 323, 504, 506, 498-A IPC and Section 3/4

DP Act, PS-Qaiserbagh, is pending before the Additional Chief Judicial Magistrate, Ist, Court No. 25, Lucknow.

He further submitted that for the purposes of renewal/issuance of fresh passport permission/NOC is required from the Court concerned. It is in view of Office Memorandum No. VI/401//1/5/2019, Government of India, Ministry of External Affairs, PSP Division, New Delhi 10.10.2019 and in light of the same, the applicant preferred an application seeking NOC and the said notification was duly indicated in para 13 of the affidavit filed in support of application, however, without taking note the same and without applying its mind the trial court vide impugned order dated 10.10.2023 rejected the said application after observing that this court does not have jurisdiction regarding issuance of NOC.

He further submitted that the order impugned is also a non-speaking order as the trial court while rejecting the prayer sought in the application has failed to record reasons after taking note of the Office Memorandum Dated 10.10.2019, indicated above.

He further submitted that in the facts and circumstances of the present case, the judgment and order dated 09.01.2019 passed in the APPLICATION U/S 482 No. - 33332 of 2017 (Ravindra Nath Bhargav vs. State of U.P.); 2019 SCC OnLine All 3698 and the judgment and order dated 16.07.2022 passed in APPLICATION U/S 482 No. - 2735 of 2021 (Zahid Saleem vs. UOI And Ors.) are fully applicable.

Reliance has also been placed on the judgment passed by the Division Bench of this Court in Misc. Bench No. 31723 of 2018 (Salim Khan vs. UOI & Ors.) and Writ - C No. 8621 of 2022 (Shiv Shankar vs. UOI And Others) and Writ - C No. 3617 of

2022 (Smt. Rashmi Kapoor vs. UOI And Others).

He also submitted that after seeking permission/NOC from the trial court the applicant is under obligation to prefer an undertaking before the Passport Officer indicating all the details including the details of criminal case(s), as per provisions of GSR 570(E) dated 25.08.1993.

He lastly submitted that in the aforesaid background of the case particularly that the order impugned is a non-speaking order and has been passed without application of mind, indulgence of this Court required.

Sri Pandey, learned Senior Advocate as also learned AGA have not disputed aforesaid aspects of the case.

Considered the submissions advanced by the learned counsel for the parties and perused the record as also the judgments, referred above.

Upon due consideration of aforesaid facts of the case including that the order of trial court 10.10.2023 is a non-speaking order and the same has been passed without application of mind as the trial court for rejecting the application seeking NOC filed by the applicant, after taking note of the Office Memorandum dated 10.10.2019, has not recorded the reasons as also the observations in various pronouncements, referred above, this Court is of the view that the impugned order dated 10.10.2023 is liable to be interfered with.

Accordingly, the order dated 10.10.2023 is set aside and the matter is remanded back to trial court with direction to dispose of the application preferred by the applicant seeking NOC afresh on or before 12.01.2024 by means of reasoned and speaking order.

It is expected that while passing the order in terms of this order, the trial court shall consider the Office Memorandum dated 10.10.2019, indicated above as also the judgments indicated in this order.

Order Date :- 18.12.2023

Vinay/-