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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4422 OF 2014**

Mr. Mohamed Ali Altaf FurniturewalaPetitioner
versus
Union of India and ors.Respondents

Mr. Niranjana Mundargi i/b. Mr. Vikram Sutaria, advocate for the petitioner.
Dr. G. R.Sharma along with Mr. S. R. Shinde, advocate for respondent-
Union of India.
Mr. S. K. Shinde, PP along with Mr. Saste, APP for the State.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 14th JULY, 2015.

P.C.:

Heard learned counsel and learned APP appearing for the respective parties.

2. Admittedly, the petitioner was holding valid passport for the period between 16th August, 2007 and 15th August, 2017 i.e. for the period of 10 years. Since the pages of the passport had exhausted, the petitioner made an application on 14th August, 2014, for re-issuance of passport. Since no decision was taken on this application, the petitioner approached this Court invoking jurisdiction under Article 226 of the Constitution of India.

3. During the pendency of the petition, Respondent No.2 passed an order dated 31st December, 2014, thereby rejecting the petitioner's application. The petitioner, accordingly, amended the petition and challenged this order.

4. Learned counsel for respondent No.2, at the outset, stated that the order dated 31st December, 2014, rejecting the petitioner's application is appealable under Section 11 of the Passport Act, 1967. Learned counsel for the petitioner, however, submitted that firstly, the said order is passed during the pendency of the petition and secondly, it is passed to render the present petition infructuous. He also submitted that the purported show cause notice dated 21st October, 2014, is antedated inasmuch as it was served only on 24th December, 2014 i.e. subsequent to filing of the petition.

5. The application was rejected solely on the ground that the petitioner has suppressed the fact about pending criminal cases. Learned counsel for the petitioner, in this regard, invited our attention to the application dated 14th August, 2014, a copy of which is annexed at Exhibit "D" as well as order dated 31st December, 2014. The said application shows that the petitioner submitted the Court order along with the application. Even the impugned order dated 31st December, 2014, makes

reference about the said order. By the order dated 14th July, 2014, the trial Court already permitted the petitioner to travel to London and Spain from 30th July, 2014 to 15th August, 2014 on certain conditions. The said order also refers to the Section under which the petitioner is prosecuted. In the circumstances, we do not find any suppression on the part of the petitioner in filing the application for re-issuance of the passport. The impugned order dated 31st December, 2014, passed solely on that ground cannot be sustained and, therefore, the same is required to be quashed and set-aside.

6. Since the period for which the petitioner was permitted to travel to London and Spain has already expired, the petitioner is required to file a fresh application before the trial Court for obtaining permission and upon obtaining such permission, he is entitled to make an application for re-issuance of the passport.

7. Learned counsel for respondent No.2 makes a statement that, in the event, the petitioner makes fresh application for re-issuance of the passport after obtaining an order from appropriate Court, the same shall be considered on its own merits. The statement is accepted.

8. In the above circumstances, the petition is disposed of by passing the following order :

1. The impugned order dated 31st December, 2014, passed by respondent No.2-passport authorities is quashed and set-aside.

2. The petitioner, is at liberty, to apply before the concerned Court for permission to travel abroad, and thereafter, to apply before respondent No.2/passport authorities for re-issuance of the passport.

3. In the event, the petitioner makes an application before respondent No.2/passport authorities for re-issuance of the passport after taking the order from the appropriate Court, respondent No.2-passport authorities shall decide the same expeditiously and independently on its own merits in accordance with law.

The petition, accordingly, stands disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)