

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Crl.R.C.No.197 of 2015

and

M.P.No.1 of 2015

M.Siddiq @ Abubakkar ... Petitioner

vs.

State rep.by
The Inspector of Police,
CCB, Vepery, Chennai. ... Respondent

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to set aside the order dated 14.05.2014 passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai, in Crl.MP.No.2255 of 2014 in Crime No.47 of 2014 and to permit the petitioner to get back his passport.

For Petitioner : Mr.T.Arockia Dass

For Respondent : Mr.P.Govindarajan,
Additional Public Prosecutor

JUDGMENT

Material on record discloses that a case in Crime No.47 of 2014 has been registered under Sections 406 and 420 IPC on the file of the Inspector of Police, Central Crime Branch, Vepery, Chennai, against the petitioner and three others, which includes his wife. While ordering bail in CrlMP No.2165 of 2014 dated 12.02.2014, the learned Principal Sessions Judge, Chennai, among other conditions, has directed the petitioner to deposit Rs.1 Crore in the Court to the credit of Crime No.47 of 2014. Imposition of the said condition has been challenged in Crl.O.P.No.3554 of 2014, as onerous, as per the law laid down by the Hon'ble Supreme Court in Sumit Mehta v. State of N.C.T. of Delhi, reported in (2014) 1 C.Cr.LR.(SC) 207 = 2013 (4) RCR (Crl.) 416.

2. Having heard the learned counsel appearing for the petitioner, learned Additional Public Prosecutor, and the Intervener, this Court, vide order dated 17.02.2014, has set aside the condition imposed in CrlMP No.2165 of 2014, directing the petitioner to deposit Rs.1 Crore to the credit of Crime No.47 of 2014 in the Court. All other conditions imposed by the Court below in the order of bail stood unaltered.

3. Thereafter, the petitioner has filed CrlMP.No.2255 of 2014 in Crime No.47 of 2014 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai, for return of the passport. In the said petition, he has submitted that all other conditions imposed by the learned Principal Sessions Judge, Chennai, in CrlMP No.2165 of 2014, have been complied with. Prosecution has objected to return of passport on the grounds inter alia that there is every possibility of the petitioner to flee to foreign countries. Having regard to the objection of the prosecution, and since the criminal case was at the earlier stage of investigation, the Court below by observing that if the passport is returned to the petitioner, there is every possibility of the petitioner to escape to foreign countries and since the investigation was at the preliminary stage, vide order dated 12.02.2014, in CrlMP.No.2165 of 2014, dismissed the application filed for return of passport. Being aggrieved by the said order, this Criminal revision is filed.

4. At the time of hearing of the present revision case, it is brought to the notice of this Court that accused No.2, wife of the petitioner has filed an application in CrlMP.No.652 of 2015 in Crime No.47 of 2014 on the file of the learned XI Metropolitan Magistrate, Chennai, and despite objections made by the prosecution that there is a possibility of A2 fleeing from the Country, by order dated 19.02.2015, in CrlMP.No.652 of 2015 in Crime No.47 of 2014, the learned Magistrate, has directed return of passport, subject to certain conditions. The case of the petitioner stands on the same footing. Accused No.2, who is none other than wife of the petitioner, whose passport has been directed to be returned.

5. In the abovesaid circumstances, this Court is inclined to interfere with the impugned order. However, this Court deems fit to impose certain conditions that,

(i) before returning the Passport, the respondent is permitted to take an attested photo copy of the Passport.

(ii) the passport shall be produced before the Learned Magistrate as and when required.

In addition to the above, this Court imposes a condition that the petitioner shall not leave the Country, without the express permission of the Learned Magistrate and such permission shall be granted only after providing adequate opportunity of hearing to the respondent, as the case may be. All other conditions in the order of bail, to be duly complied with. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mps

To

- 1.The XI Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Inspector of Police,
Central Crime Branch, Vepery, Chennai.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.

+lcc to Mr.T.Arockia Dass, Advocate, S.R.No.12024

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LRS (CO)
CA(17/03/2015)

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