

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-04-2015

CORAM:

THE HONOURABLE MR. JUSTICE P.DEVADASS

CRIMINAL REVISION CASE NO.391 of 2015

A.V.Shanmugasundaram

.. Petitioner/Accused-2

vs.

The State represented by
The Deputy Superintendent of Police,
BS & FC Bangalore.

.. Respondent/Complainant

This Memorandum of Revision Petition is preferred under Sections 397 and 401 of Cr.P.C., calling for the records in connection with the order dated 22.4.2015 passed in CrI.M.P.No.1353 of 2015 on the file of the learned Principal Special Court for CBI Cases, Chennai, set aside the same and return the passport bearing No.E.1734087 (old) and K.0336768 (renewed) concerned in C.C.No.29 of 1999 on the file of the learned Principal Special Judge for CBI Cases, Chennai.

For Petitioner : Mr.A.Raghunathan,
Senior Counsel
for Mr.M.Rajavelu.

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor for CBI
Cases.

सत्यमेव जयते
O R D E R

A-2's wish is to visit Belgium and U.S.A. to see his kith and kin has been negatived by the Trial Court by dismissing his CrI.M.P.No.1353 of 2015 filed in C.C.No.29 of 1999 dated 22.4.2015.

2. Aggrieved, he came up by way of this revision before this Court.

3. According to the learned Senior Counsel for the petitioner, petitioner is 74 years old. He wants to see his daughter in Belgium and son in U.S.A. and also wish to see his newly born grandchild. He needs minimum 60 days from the date of receipt of the passport. He has made all the arrangements to look after his interest in this case by engaging defence counsel. He has roots in Society.

4. In support of his plea, a separate affidavit also has been filed by the petitioner.

5. According to the learned Special Public Prosecutor for CBI Cases the case is proceeding towards its final destination. In the circumstances, if he goes abroad, there will be difficulty in completing the trial in one of the oldest case pending in the Trial Court.

6. I have considered the rival submissions and perused the materials on record.

7. Petitioner's passport has been seized by the CBI during investigation and it was produced to the Court and it is with the Court.

8. Right to go anywhere, including abroad, has been recognised as a fundamental right in this country {see MANEKA GANDHI vs. UNION OF INDIA (AIR 1978 SC 597)}. However, this right is not absolute. It is also subject to reasonable restrictions. Such right cannot be taken away completely. But, it can be regulated when especially the petitioner is cited as an accused and criminal proceedings are pending against him.

9. Petitioner wants to see his son and daughter and his grandchildren, including his newly born grandchild. In this certain human element is involved.

10. The apprehension of the prosecution has been met by the petitioner that he has got roots in Society and he will never abandon his country of birth.

11. It is seen that earlier also he has obtained similar permission and returned India and returned the passport to the Court. He has his own house bearing Door No.1, Bhaskarapuram, Mylapore, Chennai-600 004. He has Voter's ID, Ration Card, Bank Passbook etc.

12. Now he needs 60 days time. This is one of the oldest case involving number of witnesses, number of documents. It is a time consuming case.

13. Ordered as under:-

(i) The order of the learned Principal Special Judge for CBI Cases, Chennai passed in CrI.M.P.No.1353 of 2015 dated 22.4.2015 is set aside;

(ii) The learned Principal Special Judge for CBI Cases, Chennai is directed to handover the passport bearing No.E.1734087 (old) and K.0336768 (renewed) to the petitioner;

(iii) Petitioner is permitted to visit Belgium and U.S.A.;

(iv) Within 60 days of obtaining the passport, he shall return India and return the passport to the said Court;

<https://hcservices.ecourts.gov.in/hcservices/>

(v) At the time of obtaining the passport, he shall also file a personal undertaking affidavit in the said Court embodying the above terms and conditions;

(vi) On account of absence of A-2 during the said 60 days, trial of the case shall not be postponed except really presence of A-2 is required for particular proceedings.

14. Accordingly this Criminal Revision Petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

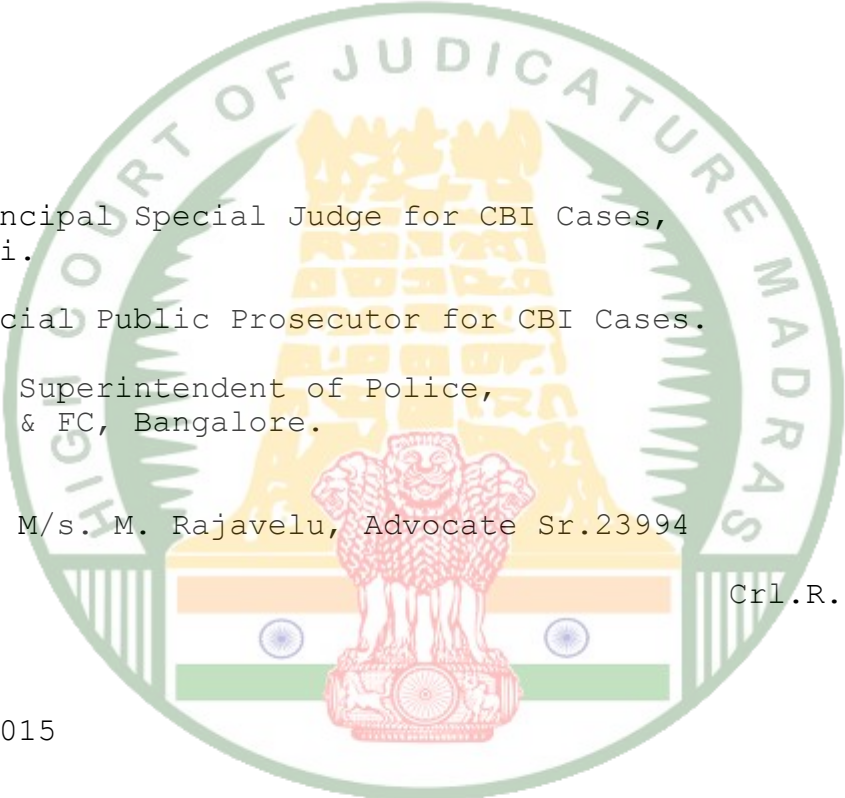
Copy to:

1. The Principal Special Judge for CBI Cases, Chennai.
2. The Special Public Prosecutor for CBI Cases.
3. The Dy. Superintendent of Police, CBI/BS & FC, Bangalore.

+ 2 ccs to M/s. M. Rajavelu, Advocate Sr.23994

Crl.R.C.No.391 of 2015

CA(CO)
Eu 30.04.2015



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