

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-08-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.810 of 2015

H.Hajaa Amarudeen

.. Petitioner/Accused

Versus

The Superintendent of Customs
(Prosecution) Airport
Customs House
Chennai.

... Respondent/Complainant.

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. against the order dated 05.06.2015 passed by the learned Additional Chief Metropolitan Magistrate, E.O.1, Egmore, Chennai-600 008, issuing non-bailable warrant against the petitioner/accused in R.R.No.30 of 2013 on the file of Additional Chief Metropolitan Magistrate, E.O.1, Egmore, Chennai-600 008.

For Petitioner : Mr.M.Abdul Nazeer

For Respondent : Mr.N.P.Kumar

O R D E R

The petitioner/accused seeking return of the passport has filed a petition in CrI.M.P.No.2998 of 2014 before the learned Additional Chief Metropolitan Magistrate, E.O.1, Egmore, Chennai, and the said Magistrate by order dated 05.12.2014 was pleased to order for return of the passport and he was directed to surrender the passport on 05.06.2015. The petitioner/accused was unable to surrender the passport on 05.06.2015. Hence, the petitioner/accused has filed a petition through his counsel under Section 317 Cr.P.C., and prayed to condone his absence. The learned Magistrate, by order dated 05.06.2015, dismissed the petition filed under Section 317 Cr.P.C., and issued a Non-Bailable Warrant against the petitioner/accused. On 07.07.2015, the petitioner/accused filed a petition under Section 70 (2) Cr.P.C., seeking to recall the Non-Bailable Warrant and to grant time for his appearance and to produce his passport, but, the said petition was dismissed. Seeking to set aside the order dated 05.06.2015 issuing non-bailable warrant issued against the petitioner/accused, this Criminal Revision Case is filed.

2. Today, when the matter is taken up, Mr.M.Abdul Nazeer, learned counsel appearing for the petitioner/accused would submit that the accused is going to get married tomorrow i.e., on 06.08.2015 and to substantiate the same, a marriage invitation is produced before this Court. He would further submit that the Non-Bailable Warrant was issued against the petitioner/accused on 05.06.2015. He would further add that the petitioner/accused undertakes to surrender the passport before the Lower Court and unless, the Non-Bailable Warrant issued against the petitioner/accused is recalled, he will be put to irreparable loss, especially, the marriage will be stopped.

3. Mr.N.P.Kumar, learned counsel appearing for the respondent would mainly contend that without surrendering the passport, no indulgence can be shown to the petitioner/accused.

4. Heard both sides. By consent, the main Criminal Revision Case itself is taken up for final disposal at the stage of admission itself.

5. Taking into consideration of the fact that the petitioner/accused is going to get married tomorrow i.e., 06.08.2015, which is not in dispute, the order passed by the learned Additional Chief Metropolitan Magistrate, E.O.1, Egmore, Chennai-600 008, dated 05.06.2015, issuing Non-Bailable Warrant against the petitioner/accused in R.R.No.30 of 2013, is set aside and the Non-Bailable Warrant issued against the petitioner/accused is recalled and this Criminal Revision Case is allowed, with a specific condition that the petitioner/accused shall surrender the passport before the Lower Court on or before 17.08.2015. It is made clear that in future, if the petitioner/accused wants to leave the country, it is for the petitioner to get permission from the Lower Court seeking return of passport and in such event, the Lower Court shall consider the same as the petitioner/accused is entitled to ask for return of passport also.

सत्यमेव जयते 05.08.2015

This Court having been posted 'For Being Mentioned' on this Friday the seventh day of August 2015, in the presence of Mr.M.Abdul Nazeer, Advocate for the Petitioner and Mr.N.P.Kumar, Special Public Prosecutor for the respondent this court made the following Order:

This matter is listed today under the caption "for being mentioned" at the instance of the learned Special Public Prosecutor for the respondent.

2. It is brought to the notice of this Court by the learned Special Public Prosecutor that when this Court disposed of the Criminal Revision Case on 05.08.2015 on the ground that the accused

is getting married on 06.08.2015, the condition regarding the appearance of the petitioner/accused before the court concerned has not been mentioned.

3. Heard both sides.

4. On a perusal of the order dated 05.08.2015 passed by this Court, it is seen that the petitioner was only directed to appear before the Court concerned for surrendering his passport on 17.08.2015. Therefore, **it is further directed that the petitioner shall on the date of his appearance before the learned Additional Chief Metropolitan Magistrate, E.O.1, Egmore, Chennai 600 008, i.e., on 17.08.2015, shall also file an affidavit of undertaking stating that he will appear before the Magistrate concerned as and when required.** It is also brought to the notice of this Court as per the direction of this Court, the marriage took place on 06.08.2015 and the same is recorded.

5. Office is directed to issue fresh copy of the order dated 05.08.2015 to the learned counsel on either side incorporating the appearance clause, now ordered by this Court. Accordingly, it is clarified.

s/d-
Assistant Registrar (CSII)
dt:17/08/2015

True Copy

Sub-Assistant Registrar

To

1. The Superintendent of Customs
(Prosecution) Airport
Customs House
Chennai.
 2. The Additional Chief Metropolitan Magistrate,
E.O.1, Egmore,
Chennai-600 008.
 3. The Special Public Prosecutor for NDPS Act,
High Court, Madras 104.
- + 1 cc to M/s.M.Abdul Nazar, Advocate SR 40970

CrI. R.C. No.810 of 2015

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