



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

Crl.O.P(MD)No.5482 of 2015and M.P. (MD) No. 1 of 2015

S.Ragamathula

... Petitioner/Petitioner

Vs.

The State represented by
Sub-Inspector of Police,
South Gate Police Station,
(In Crime No.975 of 2015)
Madurai District

... Respondent/Respondent

Prayer: Criminal Original Petition is filed under Section 439(i)(b) of Cr.P.C praying to modify one of the conditions to surrender the passport in Crl. M.P.No.8786 of 2012 dated 02.01.2013 on the file of the learned Principal Sessions Judge, Madurai. Madurai District.

For Petitioner	: Mr.Kathirvel Senior Counsel for Mr.J.Senthil Kumar
For Respondent	: Mr.K.V.Rajarajn Government Advocate (Crl.side)
For Intervenor	: Mr.S.M.A.Jinnah

O R D E R

This Criminal Original Petition has been filed seeking for a direction to the learned Principal Sessions Judge, Madurai, to modify the conditional order passed in Cr.M.P.No.8786 of 2015 by dated 02.01.2013.

2.The brief facts of the case are as follows:

i) While granting bail the learned Principal Sessions Judge, Madurai, has directed the petitioner to surrender passport to the learned Judicial Magistrea No.IV, Madurai in Crl.M.P.No.8786 of 2012 and as per the direction, the petitioner has surrendered his passport to the learned Judicial Magistrate No.IV, Madurai. The petitioner moved an application in Crl.M.P.No.400 of 2013 before the learned Principal Sessions Judge, Madurai, to set aside the passed in Crl.M.P.No.8786 of 2012 and the same was dismissed.

ii) Being aggrieved over the order, the petitioner filed Crl.O.P.No.9661 of 2013 before this Court to set aside the order of the Sessions Judge. Eventually the original petition was dismissed as withdrawn on 19.11.2014. In the meanwhile, the defacto complainant has filed Crl.O.P.No.19188 of 2013 for a direction to the Mahila Court to expedite the trial in S.C.NO.344 of 2013. This Court allowed the application directing the learned Sessions Judge, Mahila Court to complete the trial as expeditiously as possible preferably within a period of three years from the date of receipt of copy of the order.

iii) Subsequently, the petitioner filed Cr.M.P.No.238 of 2014 in S.C.No.344 of 2013 on the file of the Mahila Court seeking return of the passport permanently or for a period of two months. The application was dismissed by the Mahila Court.



3. Mr.Kathirvel, learned Senior Counsel appearing for the petitioner submitted that the defacto complainant has been falsely filing criminal complaints and civil cases against the petitioner from the year 2012 and in view of the criminal case registered against this petitioner, he is not able to move out of India through air for his livelihood. Despite financial sufferings, the petitioner has been paying maintenance of Rs.10,000/- per month and unless the passport is returned, he will be put to much hardship. The learned Senior Counsel further submitted that the Court has no power to direct the accused to surrender the passport and it also affects his personal liberty guaranteed under Article 19 of the Constitution of India.

4. Per contra, Mr.S.M.A.Jinnah, learned counsel appearing for the defacto complainant submitted that the petitioner has filed this application suppressing the earlier orders passed by the learned Judicial Magistrate, Mahila Court and this Court and hence, this petition is liable to be dismissed on the sole ground of wilfull suppression of facts. The learned counsel would further submit that as per the direction of this Court, the defato complainant and the prosecution were ready to complete the trial, however, the accused in order to prolong the case filed one application after another. The learned counsel further submitted that the petition filed to discharge was also dismissed and in view of the earlier order passed by this Court in CrI.O.P. No.9661 of 2013, this application cannot be considered by this Court now.

5. Mr.Kathirvel, learned Senior Counsel would submit that the Criminal Original Petition No.9661 of 2013 was filed directly before the High Court under Section 482 Cr.P.C against the order passed by the Mahila Court in CrI.M.P.No.400 of 2013 instead of filing revision before the Sessions Court and in view of the non maintainability of the petition, the petitioner sought permission to withdraw and this Court has not dismissed the application on merits and therefore this application can be considered on merits.

6. It is seen that in CrI.O.P.No.9661 of 2013 this Court has not given liberty to the petitioner either to approach the Mahila Court seeking return of passport or to file a revision challenging the order passed in Cr.M.P.No.400 of 2013.

7. Heard the learned Government Advocate appearing for the State.

8. In view of the above facts, I do not find force in the contention of the learned Senior Counsel for the petitioner. Therefore, this application is dismissed. Consequently, connected M.P is closed. However, considering the facts of this case, the Mahila Court, Madurai, is directed to dispose of the case in S.C.NO.344 of 2013 on day to day basis preferably on or before 31.08.2015. If the case is not disposed of within the time stipulated by this Court, the petitioner is at liberty to approach this Court.

Sd/-
Assistant Registrar(T&P)



To

1.The Principal Sessions Judge, Madurai.

2.The Mahila Court, Madurai.

3.The Sub-Inspector of Police, South Gate Police Station,
Madurai District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.J.Senthil Kumar, Advocate in Sr No.37239

Cr1.O.P.No.5482 of 2015

08.07.2015

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RJ 03.08.2015 3P/6C