

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.1495 of 2015

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ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/A.4 to quash the dismissal order passed by the learned Judicial Magistrate of First Class/Special Mobile Court, Kurnool, dated 02.02.2015 in CrI.M.P.No. 272 of 2015 in C.C.No.215 of 2015 to extend further six months the petitioner's stay in London and to re-deposit her passport before this Court.

2. Heard the learned counsel for the petitioner/A.4 so also the learned Public Prosecutor representing State-respondent and perused the material on record.

3. This Court earlier passed the common order in CrI.P.M.P.No.11882(in CrI.P.No.9141 of 2013) and 11883(in CrI.P.No.1528 of 2013) of 2014 dated 22.09.2014 by allowing the applications extending four(4) months further time to the petitioner/A.4 and permitting the A.3 for four(4) months to travel by taking back the passport from the trial Magistrate subject to execution of a bond for Rs.50,000/- with undertaking to return and re-deposit the passport after said four months, else confiscate the amount of bond by its recovery to the State as penalty under Section 53 of IPC and thereafter any requirement is there, the petitioners shall not move this Court but for under Section 6(2)(f) of Passports Act, 1967 read with GSR 570 E Ministry of External Affairs, Union of India notification dated 25.08.1993 for travel permission and also for return of passport which is in deposit before that Court to consider on merits. The petitioner/A.4 filed before the learned Magistrate an application stating the A.4/petitioner is not in a position to travel from London to India for further four(4) months as the surgery has to be done to her back bone after 13th February,2015, hence requested six(6) months time to permit the petitioner to stay in London and to re-deposit her

passport before the Court and the learned Magistrate therefrom passed the impugned order despite of the order of the High Court to take back the passport from the trial Court is subject to undertaking to return and to re-deposit and held it was the four (4) months time that was lapsed by 22.02.2015 by which time the petitioner/A.4 shall return her passport to the trial Court and obtain travel permission and the case posted for appearance of A.1 to A.4 but without presence of A.4, the other accused cannot be examined under Section 239 of Cr.P.C. that mandates the presence and thereby not chosen to allow the petition saying the crime is of 2015 and the matter is to be disposed of as early as possible.

4. It is by impugning the non-granting of the further time of six(6) months from 22.02.2015 by the learned Magistrate in the order supra, present application is filed to set aside the same.

5. The contention of the learned counsel for the 2nd respondent-defacto-complainant that as the order of this Court (High Court) not complied with, there are no grounds to seek further extension of six(6) months from the period expired by 22.02.2015 and the case is stalling virtually from her presence and since 2013 for one or the other reason having taken back the passport failed to travel and not turning up to face trial in India. Hence, the lower Court order no way requires to impugn.

6. The learned counsel for the petitioner stated that there was some surgery to the back bone of the petitioner thereby she was not in a position to come by February, 2015 hence, to extent time but learned Magistrate has not chosen to extend six (6) months and not found the reason is genuine. No doubt, as pointed out by the learned counsel for the defacto-complainant herein for one or the other reason, the party is filing petition after petition without re-depositing the passport and not returning to India, leave about other accused 1 to 3.

7. Having regard to the above, the Criminal Petition is disposed of by extending time from now till end of October, 2015 for her return by complying all formalities for physical presence before the Court.

Needless to say on her appearance within no lapse of time she can file any application under Section 205 of Cr.P.C. before the trial Court with a notice for hearing and passing orders so to permit subject to necessary conditions. Needless to say for personal appearance to adduce any defence evidence or for Section 313 of Cr.P.C. examination file an application so to permit. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date: 27.07.2015

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