

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 736 of 2016**

- Sailesh Raj S/o Sarangpani Kannappa Mudaliyar Aged About 41 Years (Changed New Name Ricky Mudaliyar S/o Sarangpani Kannappa Mudaliyar), R/o B 20, First Floor, Kranti Nagar Near Hanumann Mandir, Police Station Tarbahar, District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh Through District Magistrate Bilaspur Chhattisgarh.

----Respondent

For Petitioner	Shri Prarag Kotecha, Advocate.
For Respondent/State:	Shri Rajendra Tripathi, Panel Lawyer

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****26/09/2016**

1. The present Cr.M.P. has been filed under Section 482 of CrPC against the order dated 05.07.2016 passed in Criminal Revision No. 85/2016 by the learned Additional Sessions Judge, Bilaspur. vide the said order the Revisional Court has rejected the revision petition preferred by the Petitioner against the order passed by the Judicial Magistrate, First Class, Bilaspur on 23.06.2016 in Criminal case No. 12141/2014 whereby the application seeking change in name of the pass-port was rejected by the trial Court.
2. The facts in brief relevant for adjudication of the present case are

that the present Petitioner and Smt. Sumalatha Mudaliyar were married on 13.11.2011. However subsequently during the course the relationship between the two got strained. The wife Smt. Sumalatha Mudaliyar filed an F.I.R. against the present Petitioner for the offence under Section 498A of IPC and F.I.R. No. 182/2014 was accordingly registered and the matter was put to trial before Judicial Magistrate First Class (for short 'the JMFC), Bilaspur wherein the case has been registered as Criminal Case No. 12414/2014. The matter is pending consideration since year 2014 and which is at present is at the stage of recording of the evidence of the complainant. Meanwhile, it is said that the parties to the dispute have also entered a settlement and by virtue of the said settlement the present Petitioner has to pay huge money to the wife to meet the conditions of the compromise to be executed.

3. At this juncture, Counsel for the Petitioner submits that the present Petitioner at the time of FIR being lodged was known as Sailesh Raj and accordingly criminal proceedings has been initiated in the said name. Pending the criminal case before the trial Court on more than a couple of the occasions the present Petitioner using the name Sailesh Raj visited overseas in connection with his business with the permission and leave granted by the Court.
4. Subsequently, it is said that on the advice of an Astrologer as well as religious belief the present Petitioner thought of changing his name from Sailesh Raj to Ricky Mudaliyar and pending the criminal case

before the JMFC he got his name changed in his PAN Card that he was holding, ADHAAR Card, Bank Passport, Voter ID etc. Now that the Petitioner who has his passport in the name of Sailesh Raj wherein he has also got a permission/validity to leave the country for a period of one year which is still in force. The Petitioner has moved an application for change of name before the JMFC which stood rejected vide order dated 23.06.2016. While rejecting the said Application learned JMFC reached to the conclusion that since the Petitioner has got his name changed in other documents on his own will, there is no necessity for permission from the Court for change of name in the passport and he would be a liberty to do so without permission of the Court. That order dated 23.6.2016 was subjected to challenge in Criminal Revision No. 85/2016 and the Court below vide the impugned order dated 05.07.2016 has also rejected the said revision petition. The Revisional Court also took the same stand on the ground that while rejecting the said revision Petition also was of the view that since the Petitioner has been arrested, charge-sheeted and is being tried in the name of Sailesh Raj, the change in name may affect the trial itself and in the criminal case identification of the accused remains to be a main issue and therefore it had refused to interfere with the order of the JMFC. At the same time Revisional Court held that it is an interlocutory order which has been passed by the Court below, the Revision Petition would not be maintainable, thus rejected the Revision leading to the filing of the present Petition.

5. Learned Counsel for the Petitioner submits that order of the Court

below is bad in law for the reason that there was no justified ground given by the JMFC. It was also submitted that the stand of the Revisional Court to refuse the prayer made by the Petitioner seeking for change in name in passport for the reason that all the other records so far as identity of the present Petitioner is concerned such as documents like the PAN Card, ADHAAR Card, Voter ID and bank passport his name stands changed to Ricky Mudaliyar and therefore the Court below should have granted him permission. It is also submitted by the Counsel for the Petitioner that the permission of the Court is necessary on account of the notification issued by the Government of India on 25.08.1993 under the provision of Section 22 of the Passport Act, 1967 wherein in the event of Criminal Case pending against a person he has to get appropriate permission from the said Court before issuance of the passport.

6. On hearing the Counsel for the parties and on perusal of the record what is clearly reflected from the proceeding before the Court below is that the complaint which has been lodged against the present Petitioner by his wife Smt. Sumalatha Mudaliyar is in the name of Sailesh Raj. The F.I.R., the Charge-sheet and all other documents maintained by the police authorities are in the name of Sailesh Raj and entire case, the charge-memo also the present Petitioner is being referred and known as Sailesh Raj. It would also be pertinent to mention at this juncture that even on an earlier occasion when the Petitioner intended to move out of the Country he was granted permission and he had gone out of country during the pendency of

the Criminal case in the name of Sailesh Raj alone.

7. This being the factual position undisputed, this Court is of the opinion that at this stage when the matter is already reached to the stage of evidence of the complainant before the Court below, the Court below has not committed any illegality or infirmity in rejecting the prayer pending the Criminal case in accordance with law. For all practical purposes since the Petitioner has been prosecuted and the entire charge-sheet is also in the name Sailesh Raj it would be proper if the trial is concluded in the said name and not in the changed name. It would also be necessary at this juncture to mention that once when the matter has been resolved and a compromise between the Petitioner and the complainant has been arrived at, the Petitioner can take appropriate step to get the matter concluded at the earliest and thereafter he would be free to proceed further with the changed name or to move appropriate application in this regard before the passport authority. Pending the criminal case in the light of the compromise having arrived at, this Court is of the opinion that at this juncture permitting appropriate application for change of his name in pass-port may not be advisable as it may further create confusions and complications in the further conducting of the trial or even at the appellate stage if reached. Thus, this Court does not find good reasons to entertain the Petition calling for a direction permitting change of name.
8. It would also be appropriate to mention that the petitioner at this

stage has tried to invoke provision of Section 482 of Cr.P.C. The provision under Section 482 CrPC clearly stipulates the powers of High Court which for ready reference is reproduced below :-

“482. Saving of inherent power of High Court –

Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

9. Thus, relying the said provision the relief sought for by the Petitioner can not be one which may fall within the ambit of Section 482 CrPC as this Court does find an abuse of the process of the Court taking place, neither is there any illegality pointed out in the course of conducting of the trial, so as to ensure the ends of justice.
10. There is nothing as such for the Petitioner for which he could not have waited the conclusion of trial before going in for change in name.
11. The present CrMP for the aforesaid reasons deserves to be and is accordingly rejected.

**Sd/-
(P. Sam Koshy)
JUDGE**