

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.154 of 2016

E.D.Charles

.. Petitioner

vs.

State Rep. By
The Sub-Inspector of Police
Central Crime Branch
EDF Team I
Egmore, Chennai

... Respondent

Criminal Revision filed under sections 397 (1) and 401 of Criminal Procedure Code to revise the order of the trial Court viz., Chief Metropolitan Magistrate, Allikulam, Chennai - 3 in Crl.M.P.No.6214 of 2015 dated 05.11.2015.

For Petitioner : Mr.J.C.Durairaj

For Respondent : Mr.C.Iyyaparaj Govt.Advocate
(Criminal Side)

O R D E R

This revision is preferred against the order of learned Chief Metropolitan Magistrate, Chennai, passed in Crl.M.P.No.6214 of 2015 dated 05.11.2015.

2. Heard learned counsel for petitioner and learned Government Advocate (Crl.side).

3. In permitting the petitioner to go abroad, the Court has imposed the following conditions:

"i) The petitioner shall furnish a Xerox copy of his passport;

ii) Before leaving the country, the petitioner shall inform this Court about the date of his departure, arrival, address of his stay at foreign country, contact number etc.;

iii) The petitioner/accused shall file an Undertaking Affidavit to appear before this Court as and when required by the Court;

iv) After completion of his travel, the petitioner is directed to submit his passport before this Court on or before 30.11.2015."

4. Condition No.(iv), directly offends the order of this Court passed in Crl.O.P.No.1238 of 2014, wherein it had been ordered thus:

"9. In view of the settled proposition of law that the Customs Authority has no power to impound a passport of a Citizen and further that impounding of a passport cannot be done by a Court of Law, except in the manner provided for, this Court is inclined to set aside the impugned order. The Customs Authority is directed to return the passport of the petitioners within ten days from the date of receipt of the communication of this order, on conditions, that

(i) the petitioner shall deposit a cash security of Rs.25,000/- to the credit of C.M.P.No.410 of 2014 dated 18.11.2014, on the file of the Chief Judicial Magistrate, Chennai -8.

(ii) Before returning the Passport, the respondent/Customs Authority is directed to retain a duly attested photo copy of the passport for producing the same, as secondary evidence in the trial.

(iii) The passport shall be produced before the learned Magistrate as and when required.

In addition to the above, this Court imposes a condition that the petitioners shall not leave the country, without the express permission of the learned Magistrate and such permission shall be granted only after providing adequate opportunity of hearing to the respondent, as the case may be. No costs. Consequently, connected miscellaneous petition is also closed."

For the above reason, this revision shall stand allowed with the effect that Condition No.(iv) imposed by the Court below in disposing of CrI.M.P.No.6214 of 2015 on 05.11.2015 shall stand deleted. The other conditions, namely Condition Nos. (i) to (iii) shall remain unaltered.

gpa

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Chief Metropolitan Magistrate
Allikulam, Chennai - 3

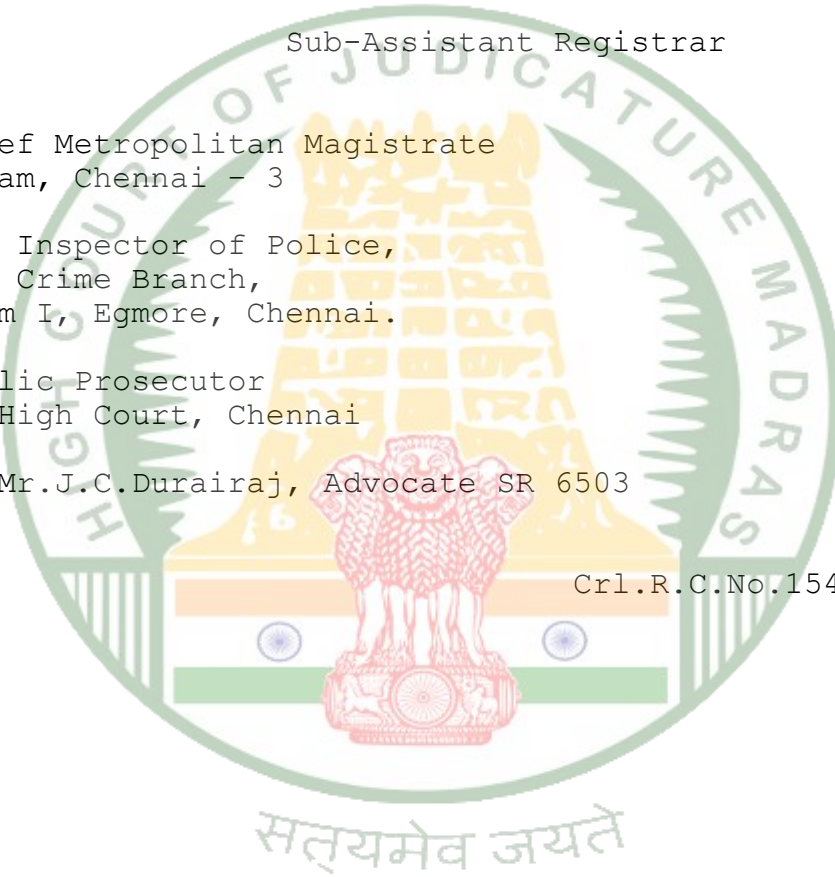
2. The Sub Inspector of Police,
Central Crime Branch,
EDF Team I, Egmore, Chennai.

3. The Public Prosecutor
Madras High Court, Chennai

+ 1 cc to Mr.J.C.Durairaj, Advocate SR 6503

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