

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 09.06.2016

Orders delivered on : 13.06.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Cr1.R.C.No.602 of 2016

Maria Stella Rene Petitioner
Vs.,

Inspector of Police,
CBI/SCB, Chennai,
RC.6/S/2014/CBI/SCB/Chennai. Respondent

Prayer: Criminal Appeal filed under Section 397 of the Criminal Procedure Code, against the order dated 27.01.2016 made in Cr.M.P.No.3648 of 2015 on the file of the learned Chief Judicial Magistrate at Puducherry.

For Petitioner : Mr.A.V.Arun

For Respondent : Mr.K.Srinivasan, Spl. PP for CBI

ORDER

This Criminal Revision Case has been filed by the petitioner praying to set aside the order dated 27.01.2016 in Cr.M.P.No.3648 of 2015 passed by the learned Chief Judicial Magistrate at Puducherry, in and by which the request of the petitioner for interim custody of her Passport was rejected by the learned Chief Judicial Magistrate at Puducherry.

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

2-1.The petitioner herein has been arrayed as 5th accused in the case in RC.6/S/2014/CBI,SCB/Chennai, on the file of the Inspector of Police, CBU/SCB, Chennai (respondent herein). The petitioner is a French National and on 01.04.2015, when she and her six years old daughter came from France to Chennai, the immigration authority detained them in airport, on the basis of a lookout notice issued by the respondent-Police pursuant to the registration of the First Information Report in RC.6/S/2014/CBI,SCB/Chennai, on the alleged credible information received by the respondent herein, stating that during the period from 2006 to 2013, one Danassou

S/o.Patchayappane, a resident of Puducherry conspired with unknown officials of the Government of Puducherry and others, impersonated himself as Charles Rane, S/o.Baskarane and obtained a passport in Passport No.07CU30181 from the Consulate General DE France a Puducherry by submitting forged documents, namely Date of Birth Certificate issued by the Assistant Tahsildar, Nagapattinam, Government of Tamil Nadu and a Ration Card, as genuine. Further, Shri.Danusu @ Danassou got his name written as Charles S/o.Basker in the Ration Card issued by the Government of Puducherry, when his actual father's name is being Shri.Patchayappane. Thus, on the basis of the above said Passport/Documents, Shri Danusu @ Danassou cheated the Passport authorities as well as Consulate authorities and went to France and became the Citizen of France by cheating Government of Puducherry. Hence, Shri.Danusu @ Dhanassou and others have committed offence punishable under Sections 120-B r/w 419, 468, 468 r/w 471 and 420 IPC and on the basis of source information, CBI registered a case in Crime No.RC.6/S/2014/CBI/SCB/CHENNAI, against the accused persons and taken up for investigation.

2-2.During investigation, it was revealed that Shri Danusu @ Danassou (A1), Shri.R.Patchiyappan (A2) father of A1, Shri P.Kumar (A3) maternal uncle of P.Danassou, Shri John Basker (A4) and his wife Smt.Marie Stella Rene (A5 - petitioner herein) entered into a criminal conspiracy during the period 2006-2007 at Puducherry and other places and in pursuance of criminal conspiracy, A1 impersonated as B.Charles by furnishing fake School Record Sheet purported to have been issued by K.Mannavan Govt Middle School, Karaikal, and Puducherry Civil Supplies Ration Card, as genuine documents, before the French Consulate DE France authorities and obtained Passport bearing No.07 CV 30181 by means of cheating. Shri Danusu @ Danassou (A1) impersonated as B.Charles created fake Date of Birth Certificate purported to have been issued by Deputy Tahsildar, Nagapattinam, by mentioning his name as B.Charles S/o.Shri Bhaskar (A4) & mother's name as Smt.Marie Stella Rene (Petitioner herein/A5) and Date of Birth as 20.01.1989 and born at Kuttalam, when the fact being his original Date of Birth was 27.12.1977, born at Condarettu Paleom, Puducherry and his original father being Shri Patchayappane (A2) and mother's name is Rany. Under such circumstances, the petitioner herein (A5), while arriving at Chennai Ariport, was detained by the Immigration Authorities based on the Look-Out Circular issued by CBI and thereafter, she was handed over to CBI and she was examined.

2-3.According to the petitioner, she has rendered full co-operation to the investigation process and in fact, she voluntarily surrendered her passport to the respondent-Police. After her arrest, the petitioner was granted bail on certain conditions and following due compliance, the conditions imposed on her were also relaxed. The 1st accused Dhanasou is in France

and his whereabouts are not known. The 4th accused (petitioner's husband) is also residing in France with their other children.

2-4. Earlier, the petitioner herein had filed a petition before the learned Judicial Magistrate at Puducherry in Crl.M.P.No.1491 of 2015 seeking interim custody of her passport, so as to enable her to meet her husband and children, who are living in France. The said petition was dismissed by the learned Chief Judicial Magistrate, Puducherry, on 06.06.2015, against which the petitioner had preferred a Criminal Revision in Crl.R.C.No.567 of 2015 before this Court. The learned Single Judge of this Court, by order dated 10.08.2015 dismissed the said revision.

2-5. According to the petitioner, she came to know that her husband is suffering from severe renal impairment and there is no one to look after him in France and there is an urgent necessity for her to travel to France. Explaining the factual position, the petitioner again filed a fresh petition in Crl.M.P.No.3648 of 2015 before the learned Chief Judicial Magistrate at Puducherry seeking custody of her passport. However, the learned Chief Judicial Magistrate dismissed the said petition, by the impugned order dated 27.01.2016, holding that there is no change of circumstance justifying the filing of the petition seeking the same relief. Aggrieved over the same, the petitioner has come forward with the present revision before this Court.

3. When the matter was taken up for consideration, the learned counsel appearing for the petitioner submitted that the petitioner's husband, who has been arrayed as 4th accused in this case, has been suffering from severe renal problems and there is no one to look after him in France; hence, there is an urgency for the petitioner to travel to France. By relying upon the decision of the Hon'ble Supreme Court in the case of Massimilano Latorre and ors Vs. Union of India and Ors, in I.A.No.14 of 2016 in Special Leave to Appeal (C) No.20370 of 2012, dated 26.05.2016, the learned counsel for the petitioner would submit that in that case, in similar circumstances, the Hon'ble Supreme Court, by imposing certain conditions, permitted the petitioner therein to return to Italy. Thus, the learned counsel for the petitioner submitted that following the said decision, similar order could be passed in the present case also.

4. But, the learned Special Public Prosecutor for CBI, by filing a detailed counter, vehemently opposed to entertain the prayer made by the petitioner. The learned Special Public Prosecutor would contend that the petitioner is in the habit of filing various petitions to avoid trial proceedings and to drag the proceedings. Despite filing of Charge-sheet, further proceedings could not be held by the learned Chief Judicial

Magistrate as A1 and A4 are French nationals and not visiting India. Further, the Extradition Treaty Agreement between India and France was entered on 24.01.2003. According to Article 5 (Extradition of Nationals) of the Extradition Agreement between India and France, 'Neither of the contracting States shall extradite their own nationals'. The French nationals, who are accused in the case, will not be deported to India for facing trials; and they would be apprehended and produced before the Court for facing trial as and when they enter India. Thus, the learned Special Public Prosecutor submitted that if the petitioner(A5) is allowed to leave to France, it will be difficult to proceed with the Trial. Thus, he sought for dismissal of the Revision.

5. Heard the learned counsel for the petitioner as well as the learned Special Public Prosecutor and perused the materials available on record.

6. It is the submission of the learned counsel for the petitioner that in similar circumstances in the case of Massimilano Latorre and ors Vs. Union of India and Ors, in I.A.No.14 of 2016 in Special Leave to Appeal (C) No.20370 of 2012, by dated 26.05.2016, the Hon'ble Supreme Court, by imposing certain conditions, permitted the petitioner therein to return to Italy. But, a perusal of the said decision, I find that the factual aspects of that case are totally different from the facts of the case on hand. Hence, the said decision is not applicable to be present case.

7. Further, I find that earlier, for the same relief, the petitioner had filed a petition in CrI.M.P.No.1491 of 2015 before Chief Judicial Magistrate at Puducherry and the said petition was dismissed by the learned Chief Judicial Magistrate, Puducherry, on 06.06.2015, against which the petitioner had preferred a Criminal Revision in CrI.R.C.No.567 of 2015 before this Court. A learned Single Judge of this Court, by order dated 10.08.2015 dismissed the said revision. Thereafter, again the petitioner filed a fresh petition in CrI.M.P.No.3648 of 2015 before the learned Chief Judicial Magistrate at Puducherry, for the same relief. The learned Chief Judicial Magistrate has rightly dismissed the same by the impugned order, dated 27.01.2016, holding that there is no change of circumstance justifying the filing of the present petition seeking the same relief.

8. Moreover, as contended by the learned Special Public Prosecutor, if the petitioner is allowed to travel to France, it will be difficult to proceed with the trial of the case. Further, there is no valid reason to interfere with the impugned order passed by the Court below. Therefore, I am not inclined to entertain the prayer sought for by the petitioner.

For the foregoing reasons, the Criminal Revision case is dismissed. However, the Trial Court is directed to split up the case and proceed with the Trial in respect of the available accused viz., A2, A3 & A5, and complete the trial as early as possible, preferably within four months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To,

- 1.The Chief Judicial Magistrate,
Puducherry.
- 2.The Inspector of Police,
CBI/SCB, Chennai,
R.C.6/S/2014/CBI/SCB/Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.V.Arun, Advocate Sr.31787

Cr1.R.C.No.602 of 2016

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