

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.9772 of 2016

Mathivathana

Petitioner

vs.

State represented by:

1 Inspector of Police
S-2, Airport Police Station
Meenambakkam, Chennai - 27

2 The Inspector of Police (Law & Order)
J-6, Thiruvanmiyur Police Station
Thiruvanmiyur, Chennai - 41

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to quash the first information report in Crime No.98 of 2013 on the file of the first respondent.

For petitioner Mr. R. John Sathyan

For respondents Mr. C. Emalias, Addl. Public
Prosecutor

ORDER

This Criminal Original Petition is filed to quash the First Information Report in Crime No.98 of 2013 on the file of the first respondent.

2 Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent State.

3 It is the case of the prosecution that this petitioner, a Sri Lankan national, was apprehended at the immigration point at Anna International Airport on 03.08.2013, when she was about to depart with fabricated exit permit and was handed over the respondent police, who, registered a case in S-2 Police Station Crime No.98 of 2013 under Section 12(1-A)(b) of the Passport Act read with Section 420, 468 and 471 IPC. The petitioner was arrested and in her confession statement, she appears to have stated that she had come to India to support her daughter, who

is doing studying here and that she had overstayed here beyond the visa period. When she wanted to return to Sri Lanka, her husband had asked her to contact one Ganesan, a Sri Lankan national, who had assured her that he would arrange for an exit permit. Like the petitioner, two persons, viz., Sellakandu Nagarajah and Senthivaran Vilvarajan, who are also Sri Lankan nationals, were given exit permits by Ganesan and all the three of them went to the airport on 03.08.2013. At the airport, the authorities permitted the said Sellakandu Nagarajah and Senthivaran Vilvarajan to leave India, whereas, this petitioner was apprehended and was handed over to the police, inasmuch as she was holding a fake exit permit.

4 The learned Additional Public Prosecutor submitted that the investigation in this case is almost completed and even the sanction to prosecute has been obtained from the concerned authority and the final report is ready to be filed before the jurisdictional Court.

5 Mr. John Sathyan, learned counsel for the petitioner submitted that even going by the prosecution version, it is clear that this petitioner had no reason to believe that the exit permit is a fabricated document. When questioned by the police, she disclosed all the information and the police also knew that in the very same flight, Sellakandu Nagarajah and Senthivaran Vilvarajan had left India. Under such circumstances, he prays that the prosecution has to be quashed.

6 Though the petitioner has got a very good defence in the trial inasmuch as possession of a fabricated document simplicitor may not attract the penal provisions of the Indian Penal Code, yet, the question of mens rea cannot be decided in a proceeding under Section 482, Cr.P.C. It is for the Trial Court to analyse the circumstances of the case and come to a conclusion whether the petitioner was a victim as pleaded by Mr. John Sathyan.

7 In the light of the above, the respondent police is directed to file final report within a period of two weeks from the date of receipt of a copy of this order before the concerned Court and the concerned Magistrate is directed to proceed with the trial by issuing process to the petitioner and take action in accordance with law.

8 Mr. John Sathyan, learned counsel for the petitioner submitted that even though the final report has not been filed as on today, the petitioner is willing to undergo the ordeal of trial by appearing before the Judicial Magistrate, Alandur, as soon as the final report is filed and submit herself to the jurisdiction of the Court.

9 Recording the said submission, this Court directs the Trial Court to complete the trial of the accused within a period of one month from the date of the petitioner appearing before the Trial Court, provided, the petitioner cooperates in the conduct of the trial by cross examining the witnesses as and when they are examined-in-chief.

With the above directions, this Criminal Original Petition is dismissed.

cad

-s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

- 1 The Inspector of Police
S-2, Airport Police Station
Meenambakkam, Chennai - 27
 - 2 The Inspector of Police (Law & Order)
J-6, Thiruvanmiyur Police Station
Thiruvanmiyur, Chennai - 41
 - 3 The Judicial Magistrate
Alandur
 - 4 The Public Prosecutor
High Court of Madras, Chennai 600 104
- + 1 cc to Mr.R.John Sathyan, Advocate SR 35474

ak(co)
prk13/7

Crl.O.P. No.9772 of 2016

सत्यमेव जयते

WEB COPY