



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.RC(MD) No.330 of 2016

WEB COPY

Isac

... Petitioner / Petitioner

-vs-

State through the Inspector
of Police, Annanagar P.S. In
Madurai Distract
Crime No.336 / 2012

... Respondent / Complainant

PRAYER: Criminal Revision Petition is filed, under Section 5 of Limitation Act, to call for the records and set aside the order passed by the learned Judicial Magistrate No.VI, Madurai in Cr.M.P.No.1381 of 2014, dated 11.04.2014 and to pass appropriate order to return back the passport bearing No.22134044 for the interim custody of this petitioner.

For Petitioner: Mr.J.William Christopher

For Respondent: Mrs.S.Prabha
Govt.Advocate (Crl.Side)

O R D E R

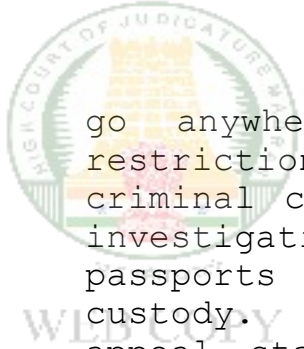
In this revision, the accused challenges the dismissal of his return of passport petition in Cr.M.P.No.1381 of 2014, by the learned Judicial Magistrate No.VI, Madurai.

2. The revision petitioner has become an accused in Crime No.336 of 2012, registered by the Inspector of Police, Annanagar Police Station, Madurai City. As on date, investigation is pending and final report has not been filed. At this juncture, the petitioner filed the said petition seeking return of his passport so as to enable him to go abroad.

3. The learned Magistrate, by his order dated 11.04.2014, refused to return the passport on the ground that investigation is pending.

4. I have heard both sides, perused the impugned order and also gone through the materials on record.

<https://hcservices.courts.gov.in/hcservices/> 5. The impugned order is required to be interfered with, because the right to hold passport itself is a fundamental right in view of Article 19 of the Constitution of India. Anybody can



go anywhere. But, under the said Article 19 reasonable restrictions can be imposed. Now, when persons involved in criminal cases, in order to see that they are available for the investigation, pre-trial, trial and post-trial stage, their passports are being seized and kept in Police custody or Court custody. But, at the same time, even if he is convicted, during appeal stage also his passport can be returned to him for a temporary period, if he has roots in Society and his visit is for a genuine purpose. He must establish it by producing relevant materials. If the Court is satisfied, it can give temporary custody of his passport prescribing appropriate terms and conditions.

6. Now, in this case, the Trial Court has not considered relevant aspects and it has not viewed the matter in proper perspective. It simply dismissed the petition on the ground that investigation is pending. That is not a bar for seeking passport. It can be returned upon his demonstrating relevant factors, which we have already stated.

7. In view of the foregoing, ordered as under:

- i. This criminal revision is allowed.
- ii. The Order, dated 11.04.2016, passed in Cr.M.P.No.1381 of 2014, by the learned Judicial Magistrate No.VI, Madurai, is set aside.
- iii. The Magistrate will restore Cr.M.P.No.1381 of 2014 to file.
- (iv) The petitioner will produce relevant materials to the Magistrate.
- (v) The Magistrate will hear both sides and pass orders according to law.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.VI, Madurai.

2.The Government Advocate (Criminal Side)

Madurai Bench of Madras High Court,

Madurai.

3.The Inspector of Police,

Annanagar P.S., Madurai District.

+One cc to M/s.J.William Christopher, Advocate, SR.No.28357

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