

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal R.C.No.293 of 2017

Shaji Purushothaman

... Petitioner

Vs.

State by Assistant Commissioner of Police,
Traffic Investigation East District
D.6, Anna Square Traffic Investigation
Chennai (Crime No.354/T2/2013)

... Respondent

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code praying to call for the records, set aside the order dated 13.02.2017, passed in CrI.M.P.Sr.No.2954 of 2017 in S.C.No.19 of 2014, on the file of VII Additional Sessions Judge, Chennai for return of passport.

For Petitioner : Mr.R.Rajan

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)

ORDER

The petitioner is the first accused in S.C.No.19 of 2014 on the file of the learned VII Additional Sessions Judge, Chennai. He stood charged for the offences under Sections 279,337,338 of IPC and Sections 185,134(a)(b) r/w Section 187 of Motor Vehicles Act and Section 304(2) and 308 IPC r/w Section 114 of IPC and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act by the respondent Police and during investigation his passport was seized by the respondent Police.

2.Earlier, the petitioner filed a Writ Petition before this Court in W.P.No.25910 of 2016, seeking to return of passport and the same was dismissed, against which a Writ Appeal in W.A.No.1639 of 2016 has been filed, in which the Division Bench of this court passed an order dated 03.01.2017, which reads as follows:

"Learned counsel for the appellant seeks permission to withdraw the writ petition itself and pursue the remedy available to him by representing the papers, which were returned by the criminal court or by way of presentation of a fresh application. Preserving the said liberty, this writ petition is allowed to be withdrawn and hence it is dismissed as withdrawn. The Writ appeal stands disposed of. No costs."

3. Pursuant to the order passed by the Division Bench, the petitioner filed an application before the Court below seeking return of passport. The Court below returned the application stating that one of the accused in this case has filed a petition to quash the criminal proceedings against him before the Hon'ble High Court and this Court in CrI.M.P.No.1 of 2015 in CrI.R.C.No.974 of 2014, has stayed all further proceedings in S.C.No.19 of 2014. Since the entire criminal proceedings has been stayed by the High Court, the Court below cannot entertain the application filed by the petitioner seeking return of passport. Challenging the same, the present revision has been filed.

4. I have heard Mr.R.Rajan, learned counsel appearing on behalf of the petitioner and Mr.R.Ravichandran, learned Government Advocate (CrI.side), appearing on behalf of the respondent.

5. The petitioner already approached this Court by way of filing a Writ Petition seeking return of passport and the same was dismissed against which he filed a Writ Appeal, and the Division Bench of this Court gave liberty to the petitioner to approach the Court below to pursue his remedy available. Pursuant to the same, the petitioner has filed an application seeking return of passport. Merely because the quash petition is pending before this Court and all further proceedings has been stayed at the instance of a co-accused, there is no bar for the Court below to consider the application filed by the petitioner seeking for return of passport.

6. In the above circumstances, the Court below is directed to consider the application filed by the petitioner and pass suitable orders on merits in accordance with law. Since the application filed by the petitioner is returned, the petitioner is directed to represent the same and on the event of such representation, the Court below is directed to number the same and consider the application, pass orders after hearing the petitioner and the respondent, on merits in accordance with law.

With the above observations, the Criminal Revision is disposed of.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The VII Additional Sessions Judge,
Chennai.
2. The Assistant Commissioner of Police,
Traffic Investigation East District
D.6, Anna Square Traffic Investigation
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Rajan, Advocate, S.R.No.24649

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VD(CO)
CA(04/05/2017)



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