

**ORDER RESERVED ON :06.09.2017
ORDER DELIVERED ON: 15.09.2017**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:

CORAM :15.09.2017

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

Crl.R.C.No.755 of 2017

Prof. N.Gunachandran

.. Petitioner/Petitioner

Vs.

The State
by the Inspector of Police,
CB CID Tiruppur,
Tiruppur District.

.. Respondent/ Respondent

Petition filed under Section 397 r/w 401 of Cr.P.C to set aside the order dated 22.05.2017 of the learned Chief Judicial Magistrate of Tiruppur dismissing the CMP.No.357 of 2017 in C.C.No.32 of 2013 and to order the Regional Passport Officer, Chennai to issue the passport of the petitioner.

For Petitioner : Mr.N.G.R. Prasad Sr. counsel for
Ms.G.Devi

For Respondent : Mr.C.Iyyapparaj
Addl. Public Prosecutor

ORDER

This criminal revision case has been filed against the order passed by the learned Chief Judicial Magistrate of Tiruppur, in CMP.No.357 of 2017 in C.C.No.32 of 2013, dated 22.5.2017.

2. The brief facts which lead to file this criminal revision case is as follows:

(i) The petitioner was the Assistant Director of Forensic Sciences Department. On 06.08.2001, the Assistant Engineer, Tamil Nadu Electricity Board, North Coimbatore inspected a factory premises, namely, M/s.G.K.Alloys Steels Ltd., Velayudhampalayam, Avinashi. On inspection, it was found that there was a tampering of meter by which electrical energy was allegedly stolen by the said company with the result, a case was registered in Avinashi Police Station in Cr.No.507/2001 under Sections 379 IPC r/w 39(1) and 44 of Indian Electricity Act.

(ii) Pursuant to the said registration of the case, investigation took place. During the investigation, the seized electric meter and the wires from the said company, had been sent for expert opinion, through Judicial Magistrate, Avinashi on 11.10.2001. After the report was made ready, in order to collect the same from the Forensic Sciences Laboratory, Chennai, a police constable by name, Tr.P.Sekar attached with Avinashi Police Station was nominated, who after having collected the expert opinion report from the TNFSL on

10.07.2002 had handed over the same only on 12.7.2002.

(iii) Suspecting the delayed handing over of the report, a copy of the said report filed before the Judicial Magistrate Court, Avinashi was obtained by the Investigating Officer, who intturn had referred the same with the in-charge person, i.e., one Scientific Assistant Grade-I at TNFSL, Chennai. After referring to the copy of the said report, it was pointed out that the report shown by the investigating officer as filed before the Judicial Magistrate Court was a different one than the original report sent by the TNFSL.

(iv) Subsequently, the Director of Forensic Sciences Department, Mylapore, Chennai had given a complaint against the said police constable attached with Avinashi Police Station as well as some of the staff of R&D Division, Forensic Sciences Department. Based on which, a case in CB CID Metro Cr.No.01/2003 under Section 465, 468, 471, 420 r/w 34 IPC was registered on 11.1.2003. After completion of investigation, charge sheet also was laid on 30.11.2005 against the Managing Director of the said company and other persons, who had been in the managerial position as well as some employees of the company.

(v) It seems, relatively that A1 in the case, one K.Narayanasamy had moved before this Court by filing CrI.R.C.No.148 of 2007 wherein the FIR in CB CID Metro Cr.No.01/2003 was quashed by order dated 03.09.2010 of this Court. However, a liberty was given to the respondent police to seek remedy by invoking the provision under Section 173(8) of Cr.P.C for further investigation, if they desires so.

(vi) Pursuant to the said order passed by this Court, further investigation was taken up by the police and after having completed the further investigation, an additional final report was also filed before the said Court on 05.1.2014. It is claimed that in the said final report, the petitioner herein has been arrayed as 6th accused.

(vii) In the meantime, in view of the criminal case filed against the petitioner or pending enquiry into grave charges, the petitioner had been placed under suspension by the Government on 03.01.2003 by G.O. (2D). No.7, Home (POL.XVIII) Department. The said GO placing the petitioner under suspension was challenged before this Court by filing writ petition by the petitioner in W.P.No.6626 of 2008 where by order dated 14.8.2008, this Court set aside the said order.

(viii) However, subsequently, by further Government Order in G.O.Ms.No.1114, Home (Police.18) Department, 27.8.2008, the Government again placed the petitioner under suspension.

(ix) Simultaneously, since the petitioner had attained superannuation on 31.8.2008, the Government issued further GO, i.e., G.O.Ms.No.1123, Home (Police.18) Department, dated 29.08.2008 whereby the petitioner was not permitted to retire. When that being the position, the petitioner seems to have approached the Regional Passport Office, Chennai for re-issuance of his passport and to that effect, he had filed an application with necessary fee. For the said application filed by the petitioner, the Regional Passport Officer vide his communication dated 01.09.2016 has replied stating that an objection was raised by the Director of Forensic Sciences Department, Mylapore, Chennai that the petitioner had been placed under suspension for a criminal offence and the case is under trial before the Chief Judicial Magistrate, Coimbatore vide Avinashi Police Station Cr.No.507 of 2001 and accordingly, he was not permitted to retire from service. By informing the said information, the Regional Passport Officer impliedly refuses to take up the application of the petitioner to re-issue the passport.

(x) Subsequently, the petitioner seems to have given a detailed request by way of an affidavit before the passport officer, Chennai where he has given details about the said cases and various proceedings and ultimately, he had requested the passport officer to re-issue the passport, as according to him, no case is pending against him.

(xi) To the said request made by the petitioner, the Regional Passport Officer by further communication dated 09.12.2016 directed the petitioner to furnish the Court order regarding the disposal of the criminal case vide, Cr.No.507 of 2001 as mentioned in the letter dated 17.5.2016 of the Director in-charge of Forensic Sciences Department, Mylapore. Therefore, in that regard the petitioner was directed to give clarification / explanation and without such clarification / explanation, the services required by the petitioner, i.e., re-issuance of passport cannot be considered.

(xii) In that situation, the petitioner had approached this Court by filing writ petition in W.P.No.6991 of 2017 seeking for a writ of mandamus directing the Regional Passport Officer, Chennai to consider the request of the petitioner dated 02.12.2016 and 16.12.2016 to re-issue the petitioner's passport enabling him to leave

India atleast during June 2017 to visit his children and grand children at U.S.A for a period not exceeding six months. In the said writ petition, the Regional Passport Office had filed counter affidavit where they ultimately, stated that in terms of instructions contained in the ministry of external affairs gazette notification GSR 570 (E), once the petitioner furnishes the permission of the competent trial Court, the respondent, i.e., the Passport Officer may not have any legal impediment in issuing the passport subject to usual formalities in accordance with law.

(xiii) The said case in W.P.No.6991 of 2017 was finally disposed of by this Court vide its order dated 24.4.2017 wherein the learned Judge has issued the following direction:

"8. In view of the submissions made by the learned counsel on either side, I give liberty to the petitioner to file appropriate application before the Chief Judicial Magistrate, Tiruppur, in the pending case in C.C.No.32 of 2013, seeking permission for him to go abroad. If such an application is made, the Chief Judicial Magistrate, Tiruppur, shall consider the same and pass orders, on merits and in accordance with law, within a period of three weeks from the date of filing of the

application. In the event of the Trial Court granting permission to the petitioner, the same shall be produced before the 1st respondent and in the event of the petitioner producing the copy of the order, the first respondent shall consider the same and issue passport to the petitioner as stated in paragraph No.7 of the counter affidavit.”

(xiv) Only pursuant to the said directive issued by this Court as referred to above, the petitioner has approached the concerned court, i.e, Chief Judicial Magistrate of Tiruppur by filing petition to seek permission from the said Court as required by the Regional Passport Authority.

(xv) The said petition, since was strongly objected by the respondent, i.e, Inspector of Police, CB CID, after having heard both sides, was dismissed by the said Court through the impugned order dated 22.5.2017 in C.M.P.No.357 of 2017 in C.C.No.32 of 2013, against which the present revision has been filed.

3. Mr.N.G.R. Prasad, the learned counsel appearing for the petitioner has made two fold submissions before this Court for

consideration in this revision case.

4. Firstly, the learned counsel invited the attention of this Court in the relevant provision of the Passport Act accordingly, he referred to Section 6(f) of the Passport Act which reads thus:

“(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India;”

5. Referring to the aforesaid provision, the learned counsel would state that, any proceeding in respect of an offence alleged to have been committed by the applicant pending before a criminal court in India means, that a definite charge sheet, charging a person / applicant, who seeks for renewal or re-issuance of passport should have been filed and should be pending before the criminal court in India, for trial.

6. Here in the case in hand, he would submit that there is no such criminal case is pending against the petitioner and therefore, the Regional Passport Authority firstly, ought not to have directed the petitioner to approach the concerned criminal court to get permission.

Assuming that, such a permission has to be obtained formally from the criminal court as there was a specific objection raised by the Director of Forensic Sciences Department before the Regional Passport Authority, which was in fact directed by this Court in the said Judgment cited above in the writ petition filed by the petitioner, the petitioner had rightly approached the concerned Court with proper petition which ought to have been allowed by the learned Judge, instead, the learned Judge had rejected the same through the impugned order. Therefore, it goes against the very spirit of Section 6(f) of the Passport Act.

7. Secondly, the learned counsel appearing for the petitioner would state that the very reasoning given by the learned Magistrate, who rejected the plea of the petitioner through the impugned order, that an additional final report was filed before the said Court on 05.1.2014 citing the petitioner as 6th accused, cannot be an acceptable reason, because, in the eye of law, no such additional final report dated 05.1.2014 has been taken on file by the concerned Magistrate Court and in the absence of such alleged additional final report implicating the petitioner as one of the accused, having been taken on file by the concerned Magistrate Court, it cannot be said that the said final report since have been filed, where the petitioner

allegedly been implicated as one of the accused, therefore, on that basis, permission sought for by the petitioner, cannot be granted.

8. In support of the said contentions raised by the learned counsel appearing for the petitioner, he would rely upon some of the decisions of this Court.

9. The learned counsel very much relied upon a decision of this Court in W.P.No.25232 of 2014 in the matter of **B. Ranganathan Vs. the Regional Passport Officer and another** dated 03.07.2015. In the said Judgment, the learned counsel relied upon the following observations and findings which are extracted hereunder for easy reference:

3c. Learned counsel for the petitioner also placed reliance upon 1998 SCC Online Cal 181 : [1998] 2 Cal LT 415 [[Shree Pradeed Kundalia V. Union of India and others](#)] ; 2004 Cri.L.J. 1281 [Abhijit Sen Vs. Superintendent [Administration], Regional Passport Officer and others] ; 2014 SCC Online Mad 2900 [WP [MD] No.8343/2014 etc., batch dated 27.06.2014] [W.Jaihar

William and others Vs. The State of Tamil Nadu rep.by its Secretary to Government, Home Department, Fort St George, Chennai 600 009] and would submit that in the light of the ratio laid down in the said judgments, unless the cognizance is taken and charge sheet is filed by the concerned investigating agency and the summons served on the accused concerned, the case cannot be deemed to be pending and also pointing out the counter affidavit filed by the respondents 1 and 2 as well as the typed set of papers filed by them, the learned counsel submitted that even as per the version of the 2nd respondent, the petitioner is not aware of the pendency of the above said cases and therefore, the request assigned in the impugned order, on the face of it, are unsustainable and prays for quashment of the said order with an appropriate direction, directing the respondents 1 and 2 to re-issue the passport to the petitioner.

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7.The Calcutta High Court in the judgment reported in 1998 SCC Online Cal 181 : [1998] 2 Cal LT 415 [[Shree Pradeed Kundalia V. Union of India and others](#)], in page 418, has considered the similar issue and

observed as follows:-

Coming to the specific instance of the pendency, of criminal proceedings as per clause [f], it is to be noted that it is not every pendency of all types of criminal cases which would automatically disentitle an applicant to refuse a passport. Each case depends on its own merits. The passport authority therefore, in the exercise of discretion, in the light of material placed before him or made available to him has to decide as to whether the pendency of any case or cases is such an event which should disentitle the applicant to the issuance of the passport. There has to be always a link, a nexus between the criminal proceedings and the going abroad of the applicant. It is not that whenever it is brought to the notice of the passport authority that a criminal case is pending against the applicant, he would automatically refuse to grant the passport. Such decision has to be taken by him, uninfluenced by any extraneous recommendation of any outside agency, but an objective consideration, on the basis of material available to him and by due application of mind.

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9. The Calcutta High Court placed reliance upon the decision rendered by a Full bench of the Calcutta High Court reported in AIR 1962 Cal 135 [[A.K.Roy V. State of West Bengal](#)]. It also placed reliance on the yet another Full Bench Judgment reported in AIR 1957 Cal 379 [Parulbala Sen Gupta Vs. State] and other decisions and held that the submission of the charge sheet is a matter culminating after the investigation by the police is over and over which the Court has no control and therefore, the presentation of a charge sheet cannot be said to initiate the criminal proceedings until cognizance is taken by the Magistrate to place the accused on trial.

10. A Single Bench of this Court, in the common order dated 27.06.2014 made in WP [MD] No.8343/2014 etc., batch, reported in 2014 SCC Online Mad 2900, has also considered the similar issue and taking into consideration various decisions, held that It is well settled legal principle that mere pendency of FIR cannot be construed as pendency of criminal proceedings in respect of the offences alleged to have been committed by the applicant before the Criminal Court. Only after the Court takes

cognizance of the offence alleged to have been committed by the applicable, as stipulated under [section 190](#) of Cr.P.C., it can be construed as proceedings pending before the Court.

and allowed the writ petitions and directed the 3rd respondent therein, viz., the Regional Passport Officer, Chennai, to consider the application of the petitioners therein and pass appropriate orders in accordance with law.

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14. Insofar as Cr.No.188/2011 is concerned, this Court has called for the report from the Court of Judicial Magistrate, Ambattur as to the stage of the said case and the learned Magistrate has sent a report dated 18.06.2015 stating that the final report in the said case was filed against the petitioner u/s.4A[1][a] of TNOPPD Act, 1959 r/w [section 71](#) [XV] of City Police Act was filed before the said court and it was taken on file on 05.05.2011 and numbered as STC.No.660/2011. In the charge sheet, the petitioner who is arrayed as an accused is shown as an absconding accused and therefore, for production of the accused, the case was posted on 31.05.2011 and again on

06.05.2011, upon the request of the Sub Inspector of Police, Korattur Police Station. The report further reads that the accused was not served with summons till date in spite of several adjournments for service of summons to the accused. Therefore, in the light of the said report, it is to be construed that the petitioner is not aware of the pendency of the said case also."

10. By citing the aforesaid Judgment, the learned counsel would argue that unless the cognizance is taken on the charge sheet filed by the concerned investigating agency and the summons served on the accused concerned, the case cannot be deemed to be pending.

11. Taking clue from the above proposition as referred in the said Judgment, the learned counsel would argue further that, in the case in hand though it is claimed by the learned Judge in the impugned order that an additional charge sheet or final report was filed before the Court on 05.01.2014 implicating the petitioner as the 6th accused, till date in the eye of law, no such additional final report was taken on file. In the absence of taking on file or the cognizance of charge sheet alleged to have been filed by the investigating agency,

the learned Judge cannot cite the said reasoning for refusal of the relief sought for by the petitioner. Therefore, the impugned order is liable to be interfered with, the learned counsel argued.

12. The learned counsel would further argue that, going abroad is the right of the petitioner as he has to undertake the travel for his family commitments and if such move is thwarted by the authority concerned, namely, the Regional Passport Authority by driving the petitioner to approach the competent criminal court to get permission / order, that itself is, nothing but, infringing the fundamental right of the petitioner. Here, when the petitioner approached the concerned court with a plea to permit him to go abroad, the same was rejected on the alleged ground that additional charge sheet has been filed against him. Since it is a settled proposition that mere filing of additional charge sheet, unless it is taken cognizance, cannot be said to be a pendency of criminal charge against the person, especially, for the purpose of seeking renewal or re-issuance of passport within the meaning of Section 6(f) of the Passport Act, the said reasoning cited in rejecting the said plea of the petitioner is absolutely, unjustifiable and unlawful. Therefore, the impugned order is liable to be interfered with, he had submitted.

13. Per contra, C.Iyyapparaj, the learned Additional Public Prosecutor appearing for the respondent would state that the actual crime where the other accused persons are involved is theft of energy that too for several crores of rupees where charges had been framed against the accused persons, who is involved in such crime. As a connected event, the very report / expert opinion from the Forensic Sciences Laboratory of Chennai, since had been tampered with by the accused persons, including the petitioner, further, additional charge sheet had been filed where the petitioner had been arrayed as 6th accused.

14. Since in the meanwhile, one of the accused already approached this Court by filing CrI.O.P.No.12982 of 2003 seeking to quash the FIR / charge, wherein, it was claimed originally that Stay was granted for further proceedings, the trial Court could not move forward to proceed with the trial, inspite of the receipt of charge sheet as well as additional charge sheet.

15. The learned Additional Public Prosecutor would also state by relying upon the averments contained in the counter affidavit filed herein by the respondent at para 10 that, though it was ascertained that the stay granted in CrI.O.P.No.12982 of 2003 was vacated, the

respondent could not get order copy from this Court and therefore, the same was not able to be produced before the trial Court. In this regard, the learned Additional Public Prosecutor has relied upon para 10 of the counter affidavit which reads thus:

"10. It is submitted that mean while a petition was filed by the accused and this Hon'ble court was pleased to grant stay in the above said case in CrI.O.P.No.12982 of 2003 and it is reported before the trial court that the stay granted by the Hon'ble High Court in CrI.O.P.No.12982 of 2003 has been vacated and the trial court has adjourned the case for filing order copy. In this regard it is also submitted that a requisition was given to a Registrar High Court requesting for a copy of the order to be filed before the trial court on 08.03.2017 and it is pending for reply."

16. He would further state that inspite of best efforts taken, the order vacating the stay obtained by one of the accused in the said CrIOP was not able to be obtained. Therefore, the trial Court without coming forward to commence the trial is keeping the case pending for years together. Therefore, taking advantage of that situation, the present petitioner has moved the petition before the trial Court to get permission to go abroad. Since the petitioner had already been

suspended from service and he was not permitted to retire on superannuation, once he is permitted to go abroad, certainly, he may abscond and once trial is commenced, it is very difficult to secure him. In the result, the trial would further delay and therefore, in order to ensure an early and speedy trial, prosecution objected to give any permission to the petitioner. Therefore, taking into consideration the overall situation, the learned Magistrate has rejected the plea of the petitioner through the impugned order. Hence, it is sustainable and also justifiable in the given circumstances of the case. Hence, no interference is warranted on the impugned order, from this Court, the learned Additional Public Prosecutor contended.

17. I have considered the rival submissions made by the learned counsel appearing for both sides and also have perused the materials placed before this Court for consideration.

18. The main contention of the petitioner is that there is no case pending against him. Assuming that if there is any additional charge sheet filed against him, since the same is not taken into cognizance, therefore, in the eye of law, it cannot be construed that the case or charge is pending against him. Therefore, in that circumstances, the petitioner would be entitled to get the order as he claimed before the

Magistrate Court so as to enable him to get the passport re-issued or renewed for making his foreign trip.

19. In this regard, certain alarming facts are to be noted in this case, where a huge energy theft was unearthed which, according to the estimate of the prosecution, made a loss to the Electricity Board to the tune of Rs.23,36,76,893/-. In order to prove or substantiate, the said charge / case, the materials such as electric meter and wire seized from the first accused company had been sent for expert opinion to Tamil Nadu Forensic Sciences Laboratory. Though the opinion / report was collected by the messenger on 10.7.2002, he had handed over the same only on 12.07.2002.

20. On suspicion, when the copy of the report submitted before the Court was referred for comparison, shockingly, it was revealed that the report submitted before the Court through the messenger (police constable one Sekar), is entirely different from the original report. Based on which complaint was given by the Director of Forensic Sciences Department where case was registered. Though subsequently, the same was quashed by this Court, further opportunity was given to the investigating agency to re-investigate or for further investigation of the matter. Accordingly, after further

investigation, additional charge sheet has been filed before the concerned Court.

21. In the additional charge sheet, the petitioner herein has been arrayed as accused No.6. According to the respondent / prosecution, the reason for arraying the petitioner as additional accused is because that the petitioner allegedly involved in tampering the report. Whether the petitioner is really involved in the crime or not can only be decided after full fledged trial.

22. Insofar as the present issue is concerned, the repeated argument on the side of the petitioner is that the additional final report filed on 05.1.2014, since has not been taken cognizance, it cannot be treated as pending charge before the criminal Court. Therefore, the said situation cannot be an impediment for the petitioner to get permission from the trial Court within the meaning of Section 6(f) of the Passport Act.

23. For the said submissions made by the petitioner's side, the answer from the respondent's side is that, though the additional charge was filed as early as on 05.01.2014, the trial Court was not in a position to take cognizance of the said charge for the reason that

one of the accused approached this Court by filing Crl.O.P.No.12982 of 2003 and obtained the stay. Only the stay order was produced before the trial Court and thereafter, even though it was ascertained by the prosecution that the stay was vacated, they could not produce the copy of the order vacating the stay.

24. Though it was claimed at one point of time by the prosecution that the very OP itself was dismissed by this Court, the prosecution was not able to obtain even such dismissal order and produce before the trial Court. Therefore, in that situation insisting upon the prosecution to produce either the vacate stay order or the dismissal order from this Court, enabling the trial Court to proceed further by taking cognizance of the additional final report pending for years together, the trial Court keep the said report pending without taking cognizance.

25. In view of this controversy, this Court called for the bundle in Crl.O.P.No.12982 of 2003. However, it is informed by the Registry that the said case was disposed of on 24.10.2009. The disposal was not on merits because the Registry was not able to trace the bundle for placing it before the Court for disposal. Therefore, in the circumstances, the said OP was placed for decision before this Court

on 24.10.2009 where the following order has been passed by a learned Judge of this Court in the said OP. The full text of the said order is extracted hereunder for better appreciation of the issue:

"This petition is of the year 2003. Registry is not able to trace the EB and other relevant papers and hence, this matter is listed under the caption 'EB not available cases'. When the matter was listed on 28.08.2009, there was no representation for the petitioner and hence, this matter was directed to be listed for dismissal. Today, when the matter is called, learned counsel submits that he is not able to trace his bundle.

2. In the said circumstances, the petition is dismissed for non prosecution, however, reserving liberty to the petitioner to seek for restoration of the petition, within four weeks from today, if circumstances warrant."

26. The aforesaid order of this Court dated 24.10.2009 certainly, would reveal certain interesting aspects. It shows that two accused persons had approached this Court by filing the said OP where initially they would have got order of interim stay. Thereafter, whether the said stay was vacated or not, is not known or cannot be ascertained as no piece of paper is available, as of now. But the case

bundle was missing and inspite of the best effort, the Registry was not able to trace the case bundle. Ultimately, it was posted before a learned Judge under the caption, " entire bundle not available cases". Since there was no case bundle and the learned counsel appeared for the petitioner also was not in a position to get on with the case, based on available case papers, if any, with him by reconstructing the bundle, the learned Judge had dismissed the said OP, however, reserving the liberty of the petitioner to restore the petition, if any circumstances warranted, within four weeks time. However, no such revival or restoration petition seems to have been filed by the petitioners therein. Therefore, the order dated 24.10.2009, dismissing the said OP have become final.

27. Even this order is not able to be obtained by the prosecution and only by directive of this Court, a print out of this order has been taken from the concerned site of the High Court website and is produced before this Court. Now, the position is very clear that there is no stay of proceeding further with the trial before the trial Court. Atleast from 24.10.2009, there is no impediment for the trial Court to proceed with the trial. However the additional charge sheet filed on 05.01.2014 has not been taken cognizance by the trial Court or the trial Court was not in a position to take cognizance of the said report

because of the alleged stay which was claimed to be still in force.

28. As no contrary order either vacating stay or dismissal of the OP was able to be produced by the prosecution or any other person or party, the trial Court has kept the case pending without taking cognizance of the additional final report dated 05.01.2014.

29. Who is responsible for creating this atrocious situation cannot be unearthed at this moment. However, it is pathetic and agonizing that inspite of a disposal made as early as in the year 2009, clearing all decks, the trial Court has been precluded from proceeding further for eight long years under the impression or pretext that they have been precluded so, by virtue of orders of this Court. Such impression was knowingly or unknowingly given by the parties before the Court and therefore, such a blame can be put against the accused persons only as at whose instance, this situation arose.

30. This situation has been knowingly or unknowingly was exploited and taking advantage of the situation, the petitioner herein filed petition after petition or case after case, ultimately, the present revision case citing the reason that no case is pending against him.

31. This technical plea raised by the petitioner may be acceptable in any other case where if genuinely final report or additional final report of the investigating agency had not been filed or taken on cognizance. Here in the case, such final report, even though was filed on 05.01.2014, the Court was clutched by creating a situation and giving an impression to the trial Court out of nothing and therefore, the said arguments advanced by the learned counsel appearing for the petitioner by citing the above said Judgment that unless cognizance is taken, it cannot be said that the proceedings are pending against the persons in criminal court in India for the purpose of Section 6(f) of the Passport Act, cannot be accepted and is liable to be rejected.

32. For all these reasons, this Court is of the firm view that the petitioner has taken advantage of the fluid situation which was created none other than the other co-accused persons with or without the knowledge of the present petitioner, trying to get some order by raising technical plea. Therefore, such attempt has rightly been thwarted by the learned Judge through the impugned order. Hence, this Court finds no illegality or impropriety attached with the said impugned order. Hence, the revision case fails and therefore, the same is dismissed.

33. Since the case in the trial Court is a long pending one and for the past several years, no progress has been shown in the trial because of the myth created by concerned persons, as has been exposed in the order of dismissal dated 24.10.2009 in Crl.O.P.No.12982 of 2003 as referred to above, the trial Court shall take cognizance of the additional final report filed on 05.01.2014, immediately and proceed with the trial. The trial Court is expected to complete the trial at the earliest, atleast within a period of six months from the date of receipt of a copy of this order.

34. With these directions, the criminal revision case is dismissed.

15.09.2017

Index : Yes

Internet : Yes

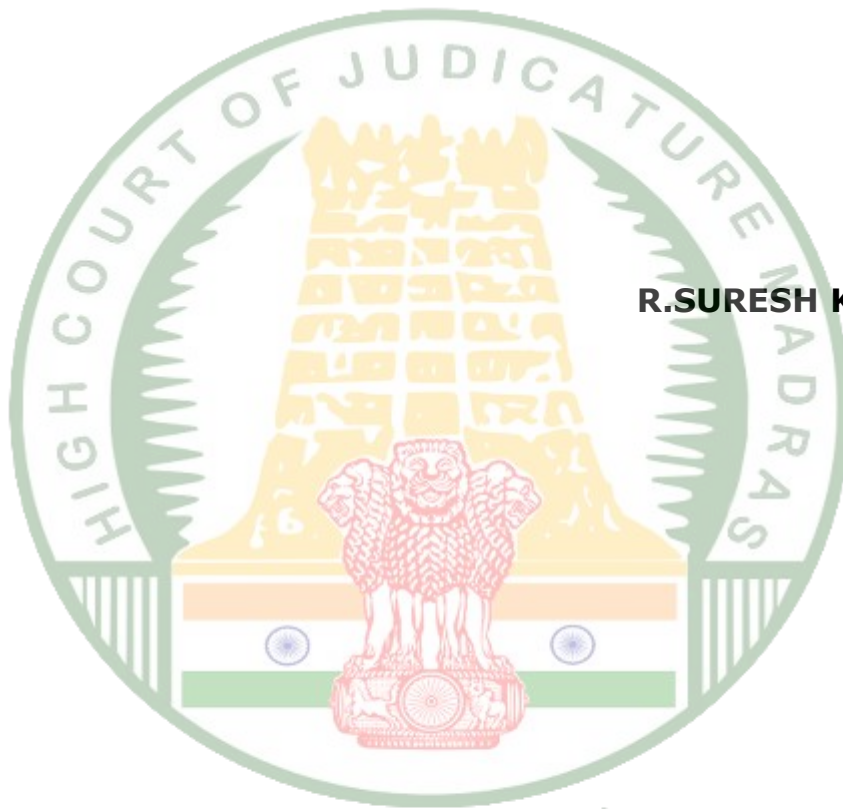
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To

1. The Chief Judicial Magistrate,
Tiruppur

2. The Inspector of Police,
CB CID Tiruppur,
Tiruppur District.

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R.SURESH KUMAR, J.

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