

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.Nos.1126 and 1127 of 2016

V.Krishnaram

.. Petitioner in both cases/Accused

vs.

The State represented by
The Deputy Superintendent of Police,
Economic Offence Wing - II
Anna Nagar,
Chennai - 40.

.. Respondent in both cases/Complainant

Criminal Revisions filed under Section 397 and 401 Cr.P.C. against the order of learned Chief Metropolitan Magistrate, Allikulam, Chennai, passed in Crl.M.P.No.6639 of 2016 in C.C.No.6546 of 2015 and Crl.M.P.No.6640 of 2016 in C.C.No.3281 of 2015 on 02.07.2016 in respect of non mentioning of period of time for permission to reissue/renewal of passport of the petitioner and grant permission to the petitioner to renew/re-issue of his passport for the maximum period of ten years.

For Petitioner : Mr.K.M.Vijayan, Senior Counsel
for Mr.T.Sundaravadanam

For Respondent : Mr.M.Mohammed Riyaz,
Government Advocate [Crl.side]

C O M M O N O R D E R

These revisions arises against the order of learned Chief Metropolitan Magistrate, Allikulam, Chennai, passed in Crl.M.P.No.6639 of 2016 in C.C.No.6546 of 2015 and Crl.M.P.No.6640 of 2016 in C.C.No.3281 of 2015 on 02.07.2016.

2. Petitioner is the second accused in case pending in C.C.Nos.3281 and 6546 of 2015 on the file of Chief Metropolitan Magistrate, Allikulam, Chennai. Petitioner has applied for renewal of his passport bearing No.Z3362116 which expired on 09.09.2016. Petitioner submitted an application with the Regional Passport Office, Chennai in File No.MA107933522256 dated 05.02.2016, mentioning the above pending cases. Petitioner

was directed to obtain permission from Court for renewal and reissue of passport. Petitioner moved Crl.M.P.Nos.6639 and 6640 of 2016 in C.C.Nos.6546 and 3281 of 2015, seeking permission for re-issue and renewal of passport. By orders dated 02.07.2016, Court below granted permission to the petitioner for re-issue and renewal of his passport without mentioning the period thereof. There against, these revisions.

3. Heard the learned Senior counsel for petitioner and the learned Government Advocate (Crl.side).

4. In dealing with pari materia case in Crl.R.C.(MD). No.658 of 2016, the Madurai Bench of this court directed as follows:

".....

6. It is admitted that the Notification of Ministry of External Affairs, dated 25.08.1993 issued in exercise of powers under Section 22(A) of Passport Act, 1967 provides that the Passport shall be issued for the period specified in the order of the Court, if the Court specifies a period for which Passport has to be issued and if no period is specified in the order, the Passport shall be issued for a period of one year. It is not disputed that similar application seeking permission before the concerned Court in C.C.No.6546 of 2015 and C.C.No.3281 of 2015 had granted the relief to re-issue and renewal of Passport of the petitioner with certain conditions. It is not clear whether the said Court had specified or mentioned the period for renewal of Passport for granting permission. The petitioner has not chosen to file the order of permission granted in the above cases to prove the fact that the said permission was granted mentioning the period, as specified in this application for renewal / re-issue of the Passport.

7. The petitioner admitted in para 4 of the affidavit in Crl.M.P.No.288 of 2016 that his Passport bearing Registration No.Z3362116, issued on 10.09.2015 and expires on 09.09.2016. The petitioner has not given any explanation why the said Passport was issued for one year. It is pertinent to note that the said Passport was issued on 10.09.2015, during pendency of the criminal cases, pending in different Courts. Though

the petitioner mentioned the maximum period of 10 years for renewal in para 5 of the said affidavit, he failed to mention the period in the prayer column of the affidavit and the petition. The trial Court has not considered the period for renewal in its order. There is no mentioning in the order about the period, if any, for re-issue / renewal of Passport in similar permission granted by another competent Court. There is no findings at all by the trial Court in its order, in respect of the period of renewal/re-issue of the Passport, as sought for in the affidavit of the petitioner herein. In the above said circumstances, this Court is inclined to allow the Revision Petition.

8. In the result, this Criminal Revision Case is allowed by setting aside the order passed by the learned Additional Chief Judicial Magistrate, Kumbakonam, in Cr.M.P.No.288 of 2016, dated 05.07.2016 and remanded the matter for fresh disposal, regarding the period of renewal for 10 years, as sought for in this petition. The learned Additional Chief Judicial Magistrate, Kumbakonam, is directed to pass orders afresh, on merits and in accordance with law, after hearing both sides."

5. Learned Government Advocate (Crl.side) brings to notice Clause (ii) of the Notification of Ministry of External Affairs, dated 25.08.1993 which is to the effect that where period of renewal has not been informed by an order of Court, the renewal shall be for a period of one year.

6. We have considered such submission and are of the view that it would be in the fitness of things to follow the order passed in Crl.R.C.(MD). 658 of 2016 dated 17.11.2016 and accordingly the criminal revisions are allowed by setting aside the order passed by the learned Chief Metropolitan Magistrate, Allikulam, Chennai, passed in Crl.M.P.No.6639 of 2016 in C.C.No.6546 of 2015 and Crl.M.P.No.6640 of 2016 in C.C.No.3281 of 2015 on 02.07.2016 and the matter shall stand remanded for

fresh disposal regarding the period of renewal for 10 years, as sought for in these petitions. The learned learned Chief Metropolitan Magistrate, Allikulam, Chennai, is directed to pass orders afresh, on merits and in accordance with law, after hearing both sides.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 The Chief Metropolitan Magistrate,
Allikulam, Chennai

2 The Deputy Superintendent of Police
Economic Offence Wing II
Anna Nagar, Chennai 40

3 The Public Prosecutor, High Court, Chennai

+2cc to Mr.B. Saravanan, Advocate, S.R.No.24 & 25

ca(CO)
md(22/02/2017)

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