

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.04.2017

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

Crl.OP.No.1842 of 2014
and
M.P.No.1 of 2014

P.R.Shiva Kumaar

...Petitioner

Vs

1.State rep. by
The Inspector of Police,
Anti Trafficking Cell,
CBCID, Chennai-600 032.
[Crime No.50/2009]
S-2, Airport Police Station]

2.S.Vijayaragavan

....Respondents

The Criminal Original petition is filed under section 482 of Crl.P.C., to call for the records and quash all further proceedings in C.C.No.185/2013 on the file of the Learned Judicial Magistrate No.1, Chengalpet, Kancheepuram District.

For Petitioners : Mr.D.Veerasekaran

For Respondents :Mr.R.Rajarathinam
Public Prosecutor for R1
Notice Sent Service Awaited for R2

ORDER

Petitioner seeks to quash proceedings in C.C.No.185/2013 on the file of the Learned Judicial Magistrate No.1, Chengalpet, Kancheepuram District.

2. Case in Cr.No.50 of 2009 on the file of the first respondent has been registered for offences under Sections 12(1)(b), 12(2) of Passport Act r/w 420, 468 & 471 of IPC.

3. The petitioner is the owner of a Hotel by name Saravana Bhavan. The prosecution case in brief is that:-

the first accused, an employee of the second accused, over stayed in America beyond the 'Visa' period. Towards falsely justifying his stay in America, the accused forged entries in the passport of A1 towards reflecting the position that he had visited India and gone back.

4. Heard learned Senior Counsel for petitioner and learned Government Advocate for first respondent. Records have been called for and perused.

5. Learned Senior Counsel for petitioner, referring to the Original F.I.R. pointed out that in column 7, the police agency initially had utilised both lines provided therefor to inform particulars of the first accused. Petitioner/A2's name had been included under the two lines provided against Column 7 and he had been shown to have been absconding. Learned Senior Counsel also pointed out that the F.I.R. originally informed the position of registration of case in Cr.No.50 of 2009 under Sections 12(1)(b) Passport Act r/w 420, 468, 471 IPC. After informing so, in between Passport Act r/w 420, 468 and 471 of IPC insertion of 12(2) of Passport Act stands made. A similar position is reflected in page 2 of the FIR.

6. Heard Learned Government Advocate [Crl.side] on the above submissions.

7. We have no hesitation in accepting the submission of learned Senior Counsel for petitioner that the inclusion of the petitioner/A2, on the face of the records itself, is an after thought. Again, when the prosecution allegation is that the passport of A1 was fabricated towards enabling his continued stay in America and it is not the prosecution case that A1 forwarded his passport to India or that A2

C.T.SELVAM, J.,

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had gone over to America during the said period, there absolutely is no possibility of this petitioner/A2 being party to the wrong doing alleged.

8. For the above said reasons, this Criminal Original Petition shall stand allowed and the proceedings in C.C.No.185/2013 on the file of the Learned Judicial Magistrate No.1, Chengalpet, Kancheepuram District, is hereby quashed insofar as this petitioner/A2 is concerned. Consequently, connected miscellaneous petition is also closed.

26.04.2017

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Index : Yes/no

Internet : Yes/no

To

1.The Inspector of Police,
Anti Trafficking Cell,
CBCID, Chennai-600 032.

2. The Public Prosecutor,
High Court, Madras-104.

Crl. O.P.No.1842 of 2014