



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Second day of March Two Thousand Seventeen
PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP (MD) No.1468 of 2017
IN
CRL OP (MD) No.14230 of 2016

WEB COPY

P. REGIN

... PETITIONERS/ACCUSED

Vs

1 THE SENIOR INTELLIGENCE OFFICER,
DIRECTORATE OF REVENUE INTELLIGENCE,
REGIONAL UNIT, TUTICORIN-628 001.

2 SENIOR INTELLIGENCE OFFICER,
DIRECTORATE OF REVENUE INTELLIGENCE,
REGIONAL UNIT, TRIVANDRUM.

... RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to direct the Learned Judicial Magistrate No.2 Nagercoil to handover the petitioners passport to him on the basis of the documents, including the tour plan, stay schedule and air tickets submitted by him forthwith.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. GRIDHAR Advocate for the petitioner and of MR.Government Advocate, on behalf of the Respondents the court made the following order:-

This Criminal Miscellaneous Petition has been filed praying to direct the learned Judicial Magistrate No.2, Nagercoil, to hand over the petitioner's Passport to him, on the basis of the documents, including the Tour Plan, Stay Schedule and Air-Tickets, submitted by him forthwith.

2. The petitioner herein along with one another filed Crl.O.P(MD)No.14230 of 2016, seeking anticipatory bail before this Court, and anticipatory bail was granted, as per the order dated 29.08.2016, on the following conditions:-

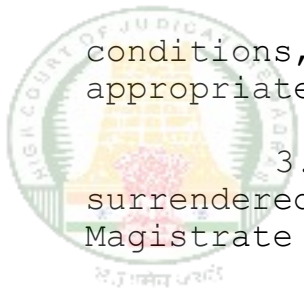
"(i) The petitioners shall report before the respondent Department, as and when required

(ii) The petitioners shall surrender their Passports before the learned Judicial Magistrate No.II, Nagercoil

(iii) The petitioners shall not tamper with the evidence or witness either during investigation or trial

(iv) The petitioners shall not abscond either during investigation or trial
<https://hcservices.ecourts.gov.in/hcservices/>

(v) It is made clear that on breach of any of the aforesaid



conditions, the learned Magistrate / Trial Court is entitled to take appropriate action against the petitioners."

3. In view of the above conditions, the petitioner herein surrendered his original Passport before the learned Judicial Magistrate No.II, Nagercoil.

4. The petitioner herein filed Crl.M.P(MD)Nos.11414 and 11415 of 2016 praying for relaxing the condition No.ii, imposed on him to surrender the Passport before the Court concerned and to hand over the same to the petitioner; and to permit the petitioner to travel abroad for business purposes, respectively. The said applications were allowed on the following terms:-

"The petitioner shall submit the application before the Court below and whenever he wants to go abroad, he is entitled to take the original, subject to the following conditions:-

i. The petitioner is directed to use his Passport to travel abroad for his employment / business purpose only.

ii. The petitioner is directed to submit his tour plan / schedules before the concerned court before to his departure.

iii. The petitioner is directed to submit all the certified copies of the travel documents viz., Visa, Air Ticket, etc relating to his journey before the court concerned.

iv. The petitioner is directed to furnish his full address of stay, contact Telephone Numbers, Fax Number etc., before the respondent police and the jurisdictional court.

v. The petitioner is directed to submit the certified copy of the passport before leaving abroad.

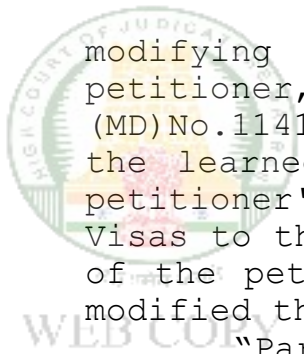
vi. On his return to India, the petitioner shall handover his Passport before the concerned Court within a period of seven working days from the date of his arrival to India.

vii. The Passport shall not be with the petitioner continuously for a period of more than three months at any point of time. That is, he has to surrender the original Passport and make a fresh application, as the presence of the petitioner has to be ensured before the jurisdictional Court."

5. The above said conditions were imposed for return of the Passport of the petitioner, which was surrendered before the learned Judicial Magistrate No.II, Nagercoil, in compliance of the conditions imposed by this Court in Crl.OP(MD)No.14230 of 2016, dated 29.11.2016. Thereafter, there are certain hurdles in getting the original Passport for travel abroad by the petitioner herein from that Court and the petitioner approached this Court, since that Court refused to return the Passport finding faults in Travel papers submitted by the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

6. The petitioner filed Crl.MP(MD)No.27 of 2017 for



modifying the conditions for handover the Passport to the petitioner, as per the order, dated 29.11.2016 passed in CrI.M.P. (MD)No.11414 of 2016 in CrI.O.P(MD)No.14230 of 2016, by directing the learned Judicial Magistrate No.II, Nagercoil, to handover the petitioner's Passport to him without insisting upon production of Visas to the Counties he desires to visit. Considering the request of the petitioner, this Court, as per the order dated 04.01.2017, modified the conditions, as below:-

"Para 5(iii) is modified directing the petitioner to submit all the Certified Copies of the travel documents viz., Air-ticket, etc., relating to his journey before the Court concerned."

7. Thereafter, the petitioner approached the learned Judicial Magistrate No.II, Nagercoil, for return of his original Passport along with travel documents. The said Court by pointing out certain particulars produced by the petitioner herein in respect of Air-tickets and stay particulars, refused to return the Passport again. Then, the petitioner once again approached this Court by filing the present petition for a direction to handover the petitioner's Passport to him by the learned Judicial Magistrate No.II, Nagercoil.

8. The learned counsel appearing for the petitioner would submit that the reasons cited by the learned Judicial Magistrate No.II, Nagercoil, for refusing to handover the Passport because of days different between Tour Plan, Stay Schedule and Flight Schedule is clearly unreasonable and contrary to the orders of this Court and on perusal of the tour schedule, stay particulars and flight schedule filed by the petitioners before the concerned Judicial Magistrate would show his bonafides. He further contends that the delay in returning the Passport is causing irreparable loss and injury to the petitioner and he was originally scheduled to go abroad in second week of December 2016, but it has been postponed frequently for want of the original Passport. He would further submit that the petitioner has export obligations under the licence granted to him and he needs to go abroad to fulfil the said obligation and any further delay would cause grave and irreparable loss to him.

9. The learned Special Public Prosecutor for the respondent would submit that he has no objection to return the Passport by the concerned Magistrate Court and the power of impounding of the Passport is not vested in this Court, except the Air-port authority, on the basis of the requisition given by the respondent herein, if necessary.

10 Considering the charges against the petitioner alleged by the respondent herein and also the contents of the order passed in CrI.O.P.(MD)No.14230 of 2016, this Court, at present, feels that keeping the Passport of the petitioner by the said learned Judicial Magistrate No.II, Nagercoil, in view of the orders passed in CrI.O.P (MD)No.14230 of 2016, is not necessary, since the petitioner in this case was directed to report before the respondent department, as and when required. The respondent has not preferred any complaint to the concerned Air-port Authority for impounding the Passport so far. In the above said circumstances, this Court recalls the conditions



imposed by this Court in Crl.M.P(MD)Nos.11414 and 11515 of 2016, dated 29.11.2016 as well as the order passed in Crl.O.P(MD)No.27 of 2017, dated 04.01.2017 and incline to direct the learned Judicial Magistrate No.II, Nagercoil, to return the original Passport to the petitioner on an undertaking by way of an affidavit given by the petitioner to produce the certified copy of the said Passport containing the Visa entries and Travel particulars, after the visit in abroad.

11. In the result, this Criminal Miscellaneous Petition is ordered, directing the learned Judicial Magistrate No.II, Nagercoil, to return the original passport, which is in his custody, to the petitioners herein, as stated above.

sd/-
02/03/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE NO.2 NAGERCOIL.
- 2 THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI AT NAGERCOIL.
- 3 THE SENIOR INTELLIGENCE OFFICER,
DIRECTORATE OF REVENUE INTELLIGENCE,
REGIONAL UNIT, TUTICORIN-628 001
- 4 SENIOR INTELLIGENCE OFFICER,
DIRECTORATE OF REVENUE INTELLIGENCE,
REGIONAL UNIT, TRIVANDRUM
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S. GRIDHAR & SAI ASSOCIATES Advocate SR.No.11883
+1cc to M/s.C.ARUL VADIVEL @ SEKAR, Advocate, in SR No.10675

ORDER IN

CRL MP(MD) No.1468 of 2017
IN
CRL OP(MD) No.14230 of 2016

Date :02/03/2017

AAM-JM SAR2/2.3.2017/4P-8C