



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Crl.RC(MD)No.260 of 2017

Orders Reserved on 22.03.2017

P.Rajaiya : Petitioner / Petitioner / A1
Vs.

The Inspector of Police,
Vembakottai Police Station,
Virudhunagar
(Cr.No.342 of 2014)

: Respondent / Respondent /
Complainant

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for records relating to order passed by the learned Judicial Magistrate No.II, Sattur in Crl.M.P.No.6842 of 2016, dated 26.12.2016 and set aside the same and thus allow this Revision Petition.

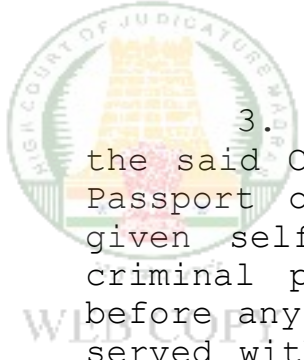
For Petitioner :Mr.N.Dilip Kumar

For Respondent :Mr.P.Kannithevan,
Government Advocate(Crl. Side)

O R D E R

This Revision has been filed praying to set aside the order passed by the learned Judicial Magistrate No.II, Sattur in Crl.M.P.No.6842 of 2016, dated 26.12.2016.

2. The petitioner herein is arrayed as first accused in C.C.No.82 of 2016, pending on the file of the learned Judicial Magistrate No.II, Sattur. The case has been registered against the petitioner and 2 others in Crime No.342 of 2014, by the respondent Police, on 26.09.2014, under Sections 286, 337, 338 and 304(A) IPC., r/w Section 9(B)(1)(a) IE Act, on the basis of the written complaint by the Village Administrative Officer. After completing the investigation, final report was laid and pending as C.C.No.82 of 2016, on the file of the learned Judicial Magistrate No.II, Sattur, against the petitioner, who is arrayed as A1 in this case.



3. While the case in C.C.No.82 of 2016 is pending before the said Court, the petitioner has applied for issuance of a new Passport on 30.08.2016 through online process, in which he has given self-declaration that he has not been charged with any criminal proceedings nor any arrest warrant or summons pending before any Court of law in India against him. The petitioner was served with a Notice, dated 07.10.2016, requiring the explanation for suppression of pendency of criminal case before the learned Judicial Magistrate No.II, Sattur. Explanation was offered by the petitioner in his letter, dated 01.11.2016, pleading his innocence and excuse in filling up the Passport application form. Hence, the petitioner moved the trial Court by way of filing Cr.M.P.No.6842 of 2016, seeking permission for issuance of Passport under the Passport Act, 1967, to the petitioner, for a limited period, to enable him to attend the child birth of his daughter-in-law in Dublin at Netherland for one month from the Month of February, 2017. After considering the reply / objection of the respondent herein through APP-II, the trial Court has dismissed the said application in its order, dated 26.12.2016. Hence, the present Revision is preferred before this Court for the aforesaid relief.

4. I have perused the materials available on record and also heard the rival submissions advanced by either side.

5. Admittedly, an FIR was registered by the respondent Police against the petitioner as prime accused, who was working as Manager in Standard Firework Pvt. Ltd., at Vijarangapuram Village, on the date of occurrence and a criminal case was pending against the petitioner in C.C.No.82 of 2016, on the file of the learned Judicial Magistrate No.II, Sattur, and thereafter only, the petitioner has applied for issuance Passport before the Passport Authority at Madurai suppressing the pendency of the criminal case by giving false declaration. The petitioner has not chosen to file any documents to show that the petitioner's son Rajesh Kannan and his wife are working as Software Engineers in Dublin at Netherland, before the trial Court or before this Court. The petitioner has not filed any records to show to substantiate the fact that a female child was born in 19.02.2017 to his son in Netherland before this Court. Hence, the reason for his foreign visit during the commencement of trial in C.C.No.82 of 2016, seeking permission of the trial Court is not substantiated with sufficient records before the trial Court, except the mere averments.

6. It is not in dispute that the right to travel abroad is one of Fundamental Right, guaranteed under the Constitution of India and mere pendency of a criminal case is not an absolute bar for issuance of Passport subject to modification of the Ministry of External Affairs, New Delhi, dated 25.08.1993 and its Circular dated 21.08.2014.



7. The petitioner has not chosen to file any documents to show directing him by the Passport Authority to seek permission of the Criminal Court in which the criminal case is pending. The Revision Petitioner contended that the petitioner's application for issuance of Passport was declined citing the pendency of C.C.No.82 of 2016, directing the petitioner to seek appropriate orders from the Criminal Court, for the purpose of going abroad and for issuance of Passport, by the Passport Authority. The Revision Petitioner / Accused has filed the present Retition without impleading the Passport Authority, since it is contended that the said Authority has declined the Passport and directed the petitioner to seek appropriate orders / permission from the criminal Court. Such allegation made against the Passport Authority are not substantiated with relevant records / documents by the Revision Petitioner before the trial Court also.

8. In the above stated facts and circumstances of the case, this Court is not inclined to intervene with the impugned order passed by the learned Judicial Magistrate No.II, Sattur declining the permission sought for by the petitioner herein, however, liberty is given to the petitioner to move the Writ Court, for obtaining appropriate orders against the Passport Authority with relevant records.

9. In the result, the Criminal Revision Petition stands dismissed with liberty to the petitioner to move the Writ Court for appropriate relief in respect of issuance of Passport by the Passport Authority.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

1.The Judicial Magistrate No.II, Sattur.

2.The Inspector of Police, Vembakottai Police Station,
Virudhunagar.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.N.Dilip Kumar, Advocate, SR.No.67424

Order made in
Cr1.RC(MD)No.260 of 2017

Dated:-
24.07.2017