



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15 .09.2017

(Orders Reserved on 06.04.2017)

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.458 of 2016

Dr.A.Ganapathi Pillay : Petitioner / Petitioner / A2

Vs.

The Inspector of Police,
Rajakkamangalam Police Station,
Nagercoil
(Cr.No.212 of 2011)

: Respondent / Respondent /
Complainant

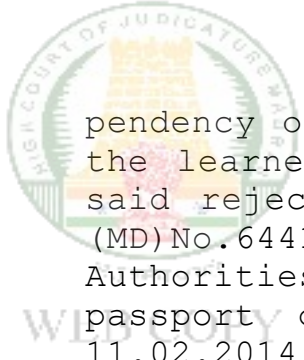
PRAYER: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records relating to the order passed by the learned Judicial Magistrate No.1, Nagercoil in Cr1.M.P.No.2486 of 2016, dated 26.04.2016 and set aside the same and thus allow this revision petition and the said application.

For Petitioner : Mr.N.Dilip Kumar
For Respondent : Mr.P.Kandasamy
Govt.Advocate (Cr1.side)

ORDER

This Criminal Revision Petition has been filed praying to set aside the order dated 26.04.2016 passed by the learned Judicial Magistrate No.1, Nagercoil in Cr1.M.P.No.2486 of 2016 and set aside the same.

2.The petitioner has been arrayed as A2 in P.R.C.No.1 of 2012 pending on the file of the learned Judicial Magistrate No.1, Nagercoil. The petitioner was having a valid passport in No.P.334149, issued on 02.05.2005 and the same has been expired on 28.03.2014 and hence, on 11.02.2014, the petitioner has applied for re-issuance of passport by renewing the same before the Passport Authority. However, the renewal of passport was rejected on the ground that the petitioner has failed to mention the



pendency of a criminal case in P.R.C.No.1 of 2012 on the file of the learned Judicial Magistrate No.1, Nagercoil. As against the said rejection, the petitioner preferred a Writ petition in W.P (MD)No.6441 of 2014 before this Court against the Passport Authorities, directing the authorities to renew the petitioner's passport on the basis of the petitioner's application dated 11.02.2014 to the Passport Sevak Kendra, Tirunelveli. This Court in its order dated 12.08.2014 has held that it is open to the petitioner to seek for appropriate orders from the Criminal Court for the purpose of going abroad and also for renewal of the passport and in the event of order being passed, it is open to the petitioner to approach the Passport Authorities and produce the said copy by giving explanation as to why the information regarding the pendency of the criminal case was suppressed and on receipt of the orders and explanation the Passport Authority shall take decision in accordance with law.

3.On 29.02.2016, the petitioner has applied through online for renewal of his passport to the Passport Sevak Kendra, Tirunelveli City and an acknowledgement dated 02.03.2016 has also been given, giving appointment on 03.03.2016. Thereafter, the petitioner filed a petition in CrI.M.P.No.2486 of 2016 before the learned Judicial Magistrate No.1, Nagercoil, seeking the relief of renewal of his passport and also granting permission to go to abroad. The learned Judicial Magistrate, Nagercoil by order dated 26.04.2016 dismissed the petition in view of the order passed in the said Writ petitions, stating that the presence of the petitioner is very much necessary for committal case in P.R.C.No.1 of 2012 and also the petitioner did not mention anything about regarding the foreign country, where he has decided to go.

4.Aggrieved by the said order of dismissal, the present Criminal Revision petition is filed by the petitioner before this Court to set aside the impugned order dated 26.04.2016 passed in Cr.M.P.No.2486 of 2016 by the learned Judicial Magistrate No.I, Nagercoil.

5.The learned counsel appearing for the revision petitioner would contend that right to travel to abroad is one of the Fundamental Rights guaranteed under Constitution of India and mere pendency of the criminal case is not an absolute bar for issuance of passport. He would also submit that as per the circular dated 25.08.1993 issued by the Central Government upon the production of necessary permission from the concerned criminal Court, an individual, who has involved in a criminal case, is eligible for obtaining passport. He would further submit that unless the petitioner has been issued passport, he cannot make arrangement to travel abroad and also make an application for getting visa and documents and the pending criminal case against the petitioner is very trivial one and hence, the impugned order of dismissal deserves to be set aside.



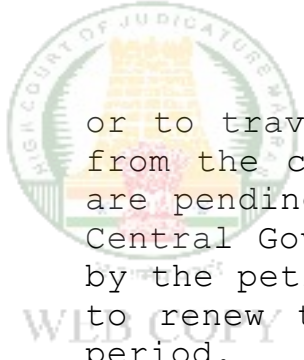
6.The counsel for the revision petitioner would rely on the following decisions in support of his contentions in the criminal revision petition itself:-

- (i) AIR 1997 Bombay 181 (Deepak Dwarkasingh Vs. Union of India)
- (ii) AIR 2003 Gujarat 108 (Dhiren Baxi Vs. Regional Passport Officer)
- (iii) W.P.(MD) Nos.11913 & 11914 of 2010, dated 26.04.2016 (Saroja Vs. Regional Passport Officer) and
- (iv) W.P.(MD) Nos.1547 & 10422 of 2012, dated 03.09.2012 (Ananda R.Ratha Krishnan Vs. Regional Passport Officer).

7.The learned Government Advocate (Crl.side) has not chosen to file counter eventhough sufficient time was granted in this criminal revision petition, however, both sides agreed to dispose of the criminal revision at the admission stage itself.

8.While this criminal revision petition is pending, this Court directed the revision petitioner to produce the copy of the explanation submitted by him before the Passport Authority, purpose of visit, duration of stay in foreign country and also his possible return date to India. However, the petitioner did not chosen to file those documents till the date of hearing this revision petition. This Court also called for a report from the Trial Court regarding the stage and reasons for the delay in committing the case in P.R.C.No.1 of 2012. Accordingly, a report dated 08.11.2016 has been received from the learned Judicial Magistrate No.1, Nagercoil, which reveals the fact that totally there are 13 accused in P.R.C.No.1 of 2012 pending on its file and the revision petitioner is arrayed as A2 and the appearance of all the accused was dispensed with in this case as per the order passed by this Court in Crl.O.P(MD)No.13419 of 2012, which was filed for quashing the FIR and the same is pending before this Court till date and no stay was granted. Hence, notice was issued for appearance of all the accused and A1, A2, A4 & A6 are present and the remaining accused are called absent and hence, the further proceedings in P.R.C.No.1 of 2012 could not be proceeded till 02.01.2016 and hence, the case is not committed and the same is still pending. Hence, P.R.C.No.1 of 2012 is pending for furnishing copies under Section 207 of Cr.P.C., however, most of the accused are not appearing before the committal Court.

9.On perusal of the impugned order, the committal Court has opined that the presence of the petitioner / A2 is very much necessary for furnishing copies and also for committing the case to Court and the petitioner did not file any travel particulars. Mere pendency of a criminal case will not deprive the right to apply for issuance of passport or renewal of passport



or to travel abroad, however, only after getting prior permission from the concerned criminal Court, where the criminal proceedings are pending, there is no bar for the petitioner, according to the Central Government Notification and also the decisions referred to by the petitioner herein, the committal Court can grant permission to renew the passport by the Passport Authorities to a limited period.

10. In view of the pendency of the criminal case, for renewing the passport of the petitioner, he can seek permission before the concerned committal Court by producing necessary particulars regarding plan to go abroad, details of travel and the country where he is going to stay and the number days to be stayed in abroad. The committal Court is directed to expedite the appearance of all accused for committal proceedings and decide the issue of granting permission to obtain renewal / issuance of passport to the petitioner herein for a limited period after giving sufficient opportunity to the petitioner. In view of the forging reasons, this Court is not inclined to grant the relief, as sought for by the petitioner.

11. In the result, the Criminal Revision Petition stands dismissed. However, the petitioner is given liberty to file a fresh petition for seeking permission to obtain his passport from the concerned Court with relevant particulars to travel abroad during pendency of the criminal case.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.1, Nagercoil
 2. The Inspector of Police,
Rajakkamangalam Police Station,
Nagercoil
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
 4. The Record Keeper,
Criminal Section
Madurai Bench of Madras High Court.
- +One cc to M/s.N.Dilipkumar, Advocate, SR.No.78964

MPK

RL/6C/4P/JC/SAR1/13/10/2017

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

Pre-Delivery Order made in
Cr1.RC (MD) No.458 of 2016

Dated:-
15.09.2017