

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE Nos.1287 AND 1546 OF 2017

COMMON ORDER:

These two criminal revision cases, under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C. '), are filed challenging the order dated 19.04.2017 in CrI.M.P. No.1005 of 2017 in C.C. No.24 of 2017 passed by the XXI Metropolitan Magistrate, Cyberabad at Medchal, Ranga Reddy District.

Petitioner in the aforesaid CrI.M.P. filed CrI.R.C.No.1546 of 2017 to set aside the order under challenge imposing certain conditions for release of the passport, whereas second respondent in the aforesaid CrI.M.P. filed CrI.R.C.No.1287 of 2017 to set aside the order under challenge, on various grounds.

The parties in these revisions hereinafter referred to as they are arrayed before the trial court.

Though several grounds were urged in the grounds of revisions, it is brought to the notice of this court that there were earlier orders passed by this court in CrI.R.C.Nos.3186 of 2016 and 2578 of 2016 dated 08.02.107 and 20.02.2017 respectively, but the recent order is in CrI.R.C.No.2578 of 2016 dated 20.02.2017 wherein this court specifically issued a direction while allowing the revision giving liberty to the petitioner to approach the Magistrate concerned within one month from the date of receipt of a copy of this order, by filing an application under Section 6(2) (f) of Indian Passport Act read with GSR 570 E, dated 25.08.1993, circular of the Central Government, to obtain transit visa or take

back the passport to travel, in which event the Magistrate can consider by imposing necessary conditions including as to security/ deposit in the event of non return to impound as part of penalty under Section 53 I.P.C. as observed in Crl.R.C.No.3186 of 2016 dated 08.02.2017 and the Magistrate shall pass order after hearing both sides.

It is evident from the order passed by this court in Crl.R.C.No.2578 of 2016 the Magistrate must afford an opportunity to both parties to advance their argument before passing any order. Though the petitioner in Crl.R.C.No.1287 of 2017 was arrayed as second respondent in the aforesaid Crl.M.P., no notice was issued and no opportunity was afforded to advance argument on her behalf. Therefore, the order passed by the Magistrate is contrary to the direction issued by this court referred above and it is against the principles of natural justice.

On this ground alone, without touching the merits of the case, the order is liable to be set aside.

Since both parties appeared before this court, the order passed by this court itself is a notice to them. Hence, no further notice need be given to the parties.

In the result, these criminal revision cases are allowed, setting aside the order dated 19.04.2017 in Crl.M.P.No.1005 of 2017 passed by the XXI Metropolitan Magistrate at Cyberabad at Medchal, Ranga Reddy District, while remanding the matter to the trial court, directing the learned Magistrate, after affording reasonable opportunity to both parties, decide the petition within 15 days from the date of receipt of a copy of this order.

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Miscellaneous petition, if any, pending in these criminal revision cases shall stand closed.

M.SATYANARAYANA MURTHY, J

11.08.2017

Note: Issue copy by 16.08.2017.
b/o.BV

