

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.191 of 2017

JUDGMENT:

This Criminal Revision Case, under Section 397 and 401 of Cr.P.C., is filed challenging the Order dt.16.02.2017 in CrI.M.P.No.941 of 2016 in C.C.No.278 of 2012 passed by XV Additional Chief Metropolitan Magistrate-cum-Special Court for Trial Video Piracy Cases, Hyderabad.

The respondent No.1 herein filed CrI.M.P.No.941 of 2016 in C.C.No.278 of 2012 under Section 451 Cr.P.C. for return of Passport as he is working in Oman Country. The respondent therein filed Counter contending that two NBWs are pending against him and he brought to Court on execution of warrant only and in case, the passport is returned, he may not appear before the Court and prayed for dismissal of the petition.

Upon hearing both the counsel, the trial Court passed an Order dt.16.01.2017 as follows:

“The petitioner/accused shall furnish a self bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) with one surety in a likesum and in case the petitioner/accused fails to appear before this Court after six months, the bond executed by him shall be forfeited and the said surety amount of Rs.5,00,000/- shall be given to the de facto complainant; (2) the petitioner/accused shall furnish his address and his telephone numbers, E Mail address and also his office address along with phone and mobile phone numbers and the names of the persons to be contacted to collect his address, whereabouts in abroad; (3) the petitioner/accused shall attend this Court after six months and resubmit his passport before this Court; and (4) the petitioner/accused is permitted to go Oman Country for a period of six months from the date of receipt of passport and the petitioner shall not dispute his identity during all the proceedings before the Court”.

Now the challenge before this Court is that if the Passport is returned, it is difficult to secure his presence before the Court to face the trial and the proceedings will be kept pending forever

and therefore, requested this Court to set aside the Order passed by the trial Court.

No doubt, the petitioner was produced before the Court on execution of NBW as he is working at Oman Country and if for any reason, the Passport is retained with the Court, it is difficult for him to eke out his livelihood moving to Oman Country as it indirectly deprived him from the source of living, as held by the Apex Court in *Suresh Nanda v. CBI*¹, wherein the Apex Court considered the affect of detaining such passports with the Courts and held that as the Criminal Court has no power to impound the passport, directed to return the passport within a week.

In view of the judgment of the Apex Court, it is difficult to accept the contention of the learned counsel for the petitioner to reverse or set aside the Order passed by the trial Court. Moreover, the Order passed by the trial Court is in accordance with law and it cannot be interfered while exercising power under Section 397 and 401 of Cr.P.C. and hence, the Criminal Revision Case is liable to be dismissed.

Accordingly, this Criminal Revision Case is dismissed.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date: 02-08-2017.
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¹ AIR 2008 SC 1414

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