

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7765 of 2017

ORDER:

Heard the learned counsel for the petitioner/accused and the learned Public Prosecutor representing State.

The petition is filed impugning the dismissal order of the learned Judl.Magistrate of First Class, Manthani, in Cr.M.P.No.537 of 2017 dt.03.08.2017 which is in pending C.C.No.214 of 2010, the impugned docket order reads as follows:-

“Heard both sides. The record disclose that the petitioner/accused has earlier also filed petition seeking the same relief which was numbered as CrI.M.P.No.461 of 2016. The said petition was dismissed by this Court vide order dt.29.02.2016.”

It is pursuant to the petition filed by the petitioner referring to Minister of External Affairs notification in GSR 570(E), dt.25.08.1993 referring to Section 22(a) of Passport Act, 1967.

Now the very application dated 11.07.2017, he mentioned that he is one of the accused in C.C.No.214 of 2010 for the offences punishable under Sections 143, 294-B, 352, 341, 322, 353 and 506 r/w 149IPC and Section 7 of the Criminal Law Amendment Act, registered by the Police Manthani and same is pending. He mentioned that Government of Telangana entrusted a work for which he has to go abroad and thereby sought for permission to attend the Gulf Telugu Welfare and Culture Association 10th year formation day celebrations that are to be held in the 1st week of September, 2017.

In the impugned order, it is stated that earlier he filed CrI.M.P.No.461 of 2016 and the same was dismissed on 29.02.2016 thereby without challenging that order, the present

petition is not maintainable which is subject matter of the impugnement herein.

The contentions in the grounds of quash petition are that the Commissioner of Police, Ramagundam, granted verification certificate, dt.25.07.2017 in favour of the petitioner of he has good moral character and reputation and the passport may be issued to him in accordance with the procedure established by law and the verification certificate issued as per the order of the High Court in the W.P.No.19643 of 2014 and he undertakes to appear before the Court whenever so ordered even during the continuance of his foreign visits and appear for trial and abide by any verdict of the Court and the impugned docket order of the Court is unsustainable and is liable to be set aside.

In this regard, it is necessary to come to the earlier order dated 29.02.2016 CrI.M.P.No.461 of 2016 where it is observed by the learned Magistrate that the case records were submitted to the High Court for the contempt proceedings initiated against the Circle Inspector of Police and the Court is not empowered to permit to go abroad thereby not inclined.

In fact, the W.P.No.19643 of 2014 is in relation to writ of mandamus sought by the petitioner herein against the Principal Secretary, Home Department, Telangana Government, Superintendent of Police, Karimagar and the Regional Passport Officer for the Superintendent of Police rejected to issue verification certificate by proceedings dated 26.06.2014 for the purpose of issuing the same, to secure passport to the petitioner under Tatkal provision and after contest on merits this Court another Bench disposed of the same with the observation that out of 11 cases

taken cognizance for the offences against the petitioner, 10 cases are already closed and the other case is stayed and the verification certificate, as sought for, shall be furnished and in view of the same there was a direction issued.

It is pursuant to the direction in the Writ Petition supra, he obtained verification certificate from the Commissioner of Police, Ramagundam, Telangana Government, dt.25.07.2017. He sought for going abroad and referring to GSR No.570(E) which is the circular of the Ministry of External Affairs, which shows whenever any person involved in any criminal case, wants to go abroad, permission of the Court concerned is required.

Once such is the case, for every requirement, the independent facts have to be considered and there is no *res judicata* even on same facts stated for other requirement which in fact rejected for subsequent filing of a petition for other requirements, as the case may be. Once such is the case, the dismissal order of the lower Court is unsustainable, that too, when the petitioner is not going to stay at abroad, but for being the Member of Legislative Assembly representing Constituency for a transit visit, he wants to go and sought for the transit permission and with passport/visa as the case may be.

In fact, the proposition of law in this regard is squarely covered of the order of this Court in CrI.R.C.No.3186 of 2016,dt.18.02.2017.

Having regard to the above, the Criminal Petition is allowed permitting the petitioner to go abroad by obtaining transit permission and passport/visa if any subject to condition of obtaining certificate from the trial Court by virtue of this Court

order by executing a bond for Rs.5,00,000/-(Rupees five lakhs only) with immovable property of equal value for his undertaking to return within one month from the date of said certificate to go abroad in the meantime, to face the trial subsequently and it is in relation to say in the event of non-compliance with the undertaking the said amount can be forfeited by virtue of Section 53 of the IPC and also by virtue of this order.

In the result, the Criminal Petition is disposed of. Consequently, Pending miscellaneous petitions, if any, shall stand closed.

Date: 30.08.2017

Note: Issue copy forthwith.
b/o.
vvr

JUSTICE Dr. B.SIVA SANKARA RAO

