

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.944 OF 2017

ORDER:

The grievance of the revision petitioner in the present revision is to the extent of 2nd relief in the impugned order of the learned Magistrate dated 24.03.2017 in CrI.M.P.No.24.03.2017 of no power to direct the Station House Officer, Mahila Police Station, to delete the lookout circular against the revision petitioner, but for to approach the appropriate forum.

2. Revision petitioner/accused No.1, filed an application before the lower court, under Section 457 Cr.P.C., seeking return of his passport seized by the Station House Officer, Mahila Police Station, that was deposited in the trial court and to delete the lookout circular issued against him. He is involved in Crime No.07 of 2015, for the offences punishable under Sections 498-A, 323, 325 r/w 34 IPC and Section 4 of Dowry Prohibition Act and the police after investigation filed charge sheet, that was taken cognizance, for the offences supra against the petitioner as accused No.1 among others, vide C.C.No.281 of 2015 and said case is pending in trial.

3. It is his claim that he is working in a private company at Qatar, Middle East Country. There was N.B.W. issued against him at post cognizance stage and while so, when he landed in India, on 06.02.2017, he was taken to custody and produced before the trial Court and he was enlarged on regular bail by conditional order of personal security with sureties. It is his further claim that he came

to India having obtained leave of the employer at abroad and he has to go back. The *de facto* complainant is, according to him, pursuing her studies in U.S.A.

4. So far as return of the passport concerned, the lower court observed that as the police has no power to impound the passport, but for the passport authorities, the passport is to be returned, in so observing, asked to give undertaking and cash surety in the form of fixed deposit for two lakhs.

5. As observed by this Court in Crl.Rc.No.3186 of 2016, scanning the law and also with reference to G.S.R. 570 E, dated 25.08.1993 and Section 6(2)(f) r/w 22 of the Indian Passports Act, once there is any crime pending, including any criminal case, the passport holder involved in the case, cannot leave the country, by obtaining any travel permission, without leave of the Court. Thus, mere taking back the passport does not enable the petitioner to leave the country without transit permission and for that the permission of the learned Magistrate is required

6. Once such is the case that is not taken care of in the impugned order of the learned magistrate, it is left open to the petitioner to seek such permission. To accord the same, there must be an assurance from the passport holder as to how he can face trial of the case by personal appearance or through special vakalat holder subject to petition under Section 205 Cr.P.C., other than for Section 313 Cr.P.C. examination personal appearance and defence evidence and on giving undertaking and security for compliance in taking back the passport to get transit permission

and in the event of non-compliance, to forfeit bond and impose penalty out of it under Section 53 I.P.C.

7. In such event and in view of the purpose of the pending lookout circular/notice is seized, from his landing in India and obtained bail to face trial, unless there is a condition not to leave the country, subject to its relaxing, the learned magistrate also can issue direction to the Station House Officer, to withdraw or cancel the pending lookout notice/circular.

8. Accordingly and subject to the above observations, the Revision is disposed of. Miscellaneous petitions pending, if any, in this case shall stand closed.

04.04.2017
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DR.B.SIVA SANKARA RAO,J

