

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.9311 of 2017

ORDER:

Heard learned counsel for the petitioner/accused No.1 and also learned Public Prosecutor representing the 1st respondent-State and before ordering notice to the 2nd respondent-defacto complainant, the so called Ex-wife of the petitioner/A.1 and perused the impugned order of the learned Magistrate dated 22.09.2017 in CrI.M.P.No.1335 of 2017 in the pending C.C.No.169 of 2017, which is the order of the learned Magistrate in permitting to go abroad by taking return of the passport.

The learned Magistrate imposed the 3 conditions in allowing the application viz., (i) A.1 shall deposit a sum of Rs.5,00,000/- by way of Fixed Deposit in any nationalized bank in which the defacto complainant has account so that interest shall be credited into the defacto complainant's saving bank account; (ii) the accused No.1 shall deposit the FDR in the court until further orders and (iii) A.1 on taking return of the passport shall deposit the passport in this Court in the month of February 2018 to the date on which this case is posted.

The main grievance of the petitioner is that the ordering of Rs.5,00,000/- bank guarantee or to invest in FD and handover the same as a security is different from ordering the petitioner to go and inquire the 2nd respondent as to where she got the bank account to invest in that bank much less any observation of crediting accrued interest to her account is untenable and the other thing is the duration given for return of the passport by end of February 2018 is hardly sufficient. So far as duration

concerned, it is from the need of his presence and facing the trial. It is not even a case that he filed any application under Section 205 Cr.P.C. for representing through special vakalat holder, leave about any such concession if at all to avail and if at all any necessity of further permission or extension, in such event if represented through special vakalat holder to consider for nothing to interfere in this regard. So far as conditions Nos.1 & 2 of fixed deposit and producing the original deposit before the Court concerned, this Court feels to sub serve the ends of justice to direct the petitioner to furnish bank guarantee as even he gives the fixed deposit obtains in his name and handover the original to the Court and he may obtain the duplicate to withdraw, ultimately the purpose will be defeated and accordingly to that extent the petition is allowed. Needless to say he is also to file undertaking affidavit while giving the bank guarantee to re-deposit the passport within the stipulated time in the order of the Court supra and in the event of the failure, needless to say the Court can forfeit the bank guarantee and impose any penalty out of it as one of the sources of punishment contemplated by Section 53 IPC.

Accordingly and in the result, the Criminal Petition is disposed of with above modifications and observations.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.10.2017
Note: Issue C.C. tomorrow
(B/o)
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