

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.1250 of 2017

ORDER:

This criminal petition is filed by the petitioner seeking to set aside the order passed in CRLMP.No.781 of 2015 in Cr.No.162 of 2015 dated 29.01.2016 on the file of the Judicial Magistrate of First Class, Sathupally.

2. Heard learned counsel for the petitioner and learned Public Prosecutor and with their consent, the criminal petition is disposed of at the admission stage. Perused the record.

3. Counsel for the petitioner relied on a decision of the Supreme Court in SURESH NANDA v. CBI¹ wherein it was held that the power of the police to seize the passport under Section 102(1) of the Criminal Procedure Code does not extend to impounding the passport and even the Court cannot impound a passport and the provisions of the Passports Act, 1967 prevail over Cr.P.C.

4. Hence, in view of the above, the order of the Court below cannot be sustained and the same is set aside with a direction to the Court below to return the passport. But, however, the police are at liberty to take steps for getting the passport impounded, if necessary, by following due procedure.

The criminal petition is allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

October 13, 2017/DSK

¹ AIR 2008 SC 1414