

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.1208 OF 2015

ORDER:

Heard both sides and perused the material on record.

2) As held by the Apex Court in ***Siddharam Satlingappa Mhetre vs State of Maharashtra***¹, the Court has got power to impose condition to deposit the passport and retain for assurance of availability of the accused to face trial. Here, in the impugned order, it is based on the application of complainant under Section 91 Cr.P.C. This is a case of Section 138 of Negotiable Instruments Act, 1881 (for short 'N.I Act') a summary procedure based on a private complaint as per Section 143 of N.I Act. There is no question of bail from issuance of summons for appearance; but for the accused has to execute bond under Section 88/89 Cr.P.C. As one of the said conditions of bond, the Court may direct to deposit the passport. However, it will not prevent the right of the accused from filing application under Section 6 (2) (f) of Indian Passport Act, 1967 read with Circular of the Central Government in GSR 570 E, dated 25.08.1993, to seek permission of the learned trial Magistrate to leave the country by taking return of the passport in deposit to have the transit permit/ visa, subject to assurance of coming back and facing of trial of the case. It is therefrom to consider by the learned Magistrate to return the passport with necessary conditions and subject to undertaking to face the trial by coming back to the country with any security or cash deposit, so that in the event of

¹ 2011 (1) ALT CrI 69 SC

failure, to forfeit the same or part of it as penalty under Section 53 IPC as laid down in ***Abdul Gaffar Khan vs State of Telangana***².

3) Having regard to the above, the direction under Section 91 Cr.P.C is not sustainable but for under Section 88/ 89 Cr.P.C.

4) Once such is the case, to sub-serve the ends of justice, this Court feels just from the submissions of both sides to direct the trial Court to proceed with the case day-to-day and complete the trial within one month from the date of receipt of a copy of this order. If there is any difficulty for the trial Court so to complete the trial, the trial Court can permit the petitioner to take back the passport on filing application by assigning reasons before the learned Magistrate to obtain necessary permission with assurance of availability by execution of bond to face trial either in person or through special vakalat holder under Section 205 Cr.P.C.

5) Accordingly and in the result, the Criminal Petition is disposed of.

6) As a sequel, miscellaneous petitions if any pending shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.10.03.2017
knl

² 2015 (1) ALT CrI 91

