

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1540 OF 2018

1. Bhagini Nivedita Sahakari Bank Ltd, Pune through its General Manager	
2. Smt.Jayashree Kale,	
3. Mrs.Anuradha Keskar	Petitioners
versus	
1. The State of Maharashtra	
2. Shrikrishna Manohar Kelkar	Respondents

Ms.Gauri Godse for petitioner.
Mr.Drupad Patil for respondent no.2.
Mr.P.H.Gaikwad, APP, for State.

CORAM : PRAKASH D. NAIK, J.
DATE : 3rd July 2018

PC :

1. The petitioners have preferred revision application before the Court of Sessions viz Criminal Revision Application No.338 of 2015 challenging the proceedings initiated by respondent no.2. The said revision application is pending for final disposal.

2. The respondent no.2 has filed a complaint for offences under Sections 379, 381, 403, 406, 408, 409, 420, 426 r/w Section 34 and 120-B of Indian Penal Code. The said complaint is numbered as CC No.1879 of 2015. Process was issued against the accused on 8th May 2015. The accused preferred application for bail which was allowed by order dated 11th June 2015 on certain conditions. One of the condition was to surrender passport to the Court. Petitioner no.2 preferred Miscellaneous Application No.180 of 2015 before Sessions Court for setting aside the conditions. The order of Trial Court was

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stayed, with condition that Petitioner no.2 to surrender before Trial Court on or before 4th September 2015. Petitioner no.2 was to travel to USA and return on 2nd September 2015. It is stated that petitioner no.2 travelled to USA on 25th June 2015. During the stay in USA she received intimation vide notice dated 26th June 2015 from the Court that the Court had restored order passed below bail application and she was directed to surrender passport within eight days. The petitioner no.2 had to return back to India. The interim order was passed by this Court in Writ Petition No.2412 of 2015 preferred by respondent no.2. The said petition was dismissed by order dated 28th February 2017 with costs of Rs.30,000/-. The petitioner no.2 submitted passport in the Court. She filed Criminal Revision Application No.338 of 2015 before Sessions Court which is pending. The respondent no.2 had preferred Special Leave Petition before Supreme Court challenging order dated 28th February 2017 which was dismissed.

3. The petitioner no.2 preferred an application before the Sessions Court in Criminal Revision Application No.338 of 2015 seeking prayers that the passport be directed to be returned to petitioner no.2 to enable her to go abroad for participating in centenary celebrations and return to India. The said application was preferred on 13th November 2017.

4. This Court by order dated 25th April 2018 directed the Revisional Court to decide the application at Exhibit-34 in accordance with law, particularly as regards release of passport in favour of petitioner no.2 for a temporary period as prayed. Pursuant to that, petitioner no.2 had appeared before the Sessions Court. The

application for return of passport was heard by the Sessions Judge and by order dated 27th April 2018 the Sessions Court directed that petitioner no.2 be handed over the passport for a period of two months so as to enable her to apply for visa. It was further directed that petitioner no.2 shall re-deposit the passport in the Court which would be subject to the final decision which would be rendered in the revision application. Petitioner no.2 was directed not to leave the country without permission of the Court. It was further observed that temporary order with regards to return of the passport of the applicant is passed without touching the merits of the revision application and keeping open all the points raised therein.

5. Pursuant to the order dated 27th April 2018, this writ petition has been amended and the order dated 27th April 2018 has been challenged by the petitioners.

6. Learned counsel for petitioners submitted that petitioner no.2 is required to travel to USA and Europe. She further submitted that pursuant to the order dated 27th April 2018, the passport was handed over to petitioner no.2 and formalities for grant of visa are completed. Probably in a couple of weeks the passport will be handed over to petitioner no.2 by passport authorities. It is submitted that petitioner no.2 is required to visit USA for a period of about six months and depending upon the circumstances, petitioner no.2 needs to visit Europe for a further period of about six months. It is submitted that petitioner no.2 would visit USA and return in India within a span of about six months and thereafter she proposes to visit Europe. It is submitted that this year is centenary year of the famous poet Vinda Karandikar which is celebrated all over the world.

Petitioner no.2 is the daughter of Vinda Karandikar and has been invited for various functions to celebrate the literature work of Vinda Karandikar in USA as well as in Europe. Since her passport was deposited in the Trial Court, she is unable to accept the invitation and participate in any of the functions. The passport was ordered to be deposited in the Trial Court as a condition for grant of bail and it is lying in the Court since last three years. It is submitted that petitioner no.2 was earlier permitted to travel USA by Sessions Court vide order dated 16th June 2015. The said order was passed pursuant to the order dated 11th June 2015 passed by the Trial Court. It is submitted that the order dated 27th April 2018 passed by the Sessions Judge further imposes a condition that the petitioners shall not leave the country without permission of the Court and the passport was handed over temporarily to enable her to apply for visa. It is submitted that while proceedings pending before Trial Court, the petitioner no.2 had attended the Trial Court regularly. The proceedings does not involve identity of petitioner no.2.

7. Learned counsel for respondent no.2 submitted that the revision application preferred by the petitioners is pending before learned Additional Sessions Judge. It is submitted that hearing of the revision application be expedited. It is submitted that there are other criminal matters being Criminal Miscellaneous Application No.180 of 2015 and Criminal Revision Application No.192 of 2017 which are pending in the Court.

8. Taking into consideration the circumstances as stated above and the reasons assigned for travelling abroad, the prayer made by petitioners deserves to be allowed. The passport was ordered to be

deposited as condition for granting bail and since then it was lying in Court. The petitioner no.2 was permitted to travel abroad on the earlier occasion. The petitioner no.2 has submitted that she has to travel abroad to attend the centenary celebrations and for reasons stated in the application at Exhibit-34. The proceedings are challenged in revision application and the same are stayed. Hence, I pass following order :

ORDER

(i) The passport of petitioner no.2 be handed over to her and she be permitted to travel for a period of one year. Petitioner no.2 is permitted to travel to United States of America and Europe within one year;

(ii) The order dated 27th April 2018 passed by Additional Sessions Judge, Pune below Exhibit-34 in Criminal Revision Application No.338 of 2015 is set aside;

(iii) The Sessions Court is directed to take up Criminal Miscellaneous Application No.180 of 2015 and Criminal Revision Application No.192 of 2017 with Criminal Revision Application No.338 of 2015 for hearing. All the above matters be listed before the Additional Sessions Judge, Pune before whom Criminal Revision Application No.338 of 2015 is pending for final disposal;

(iv) Learned Additional Sessions Judge, Pune is directed to decide all the applications referred above within six months from the date of receipt of this order on merits and in accordance with law;

(v) It is clarified that this Court has not expressed any view on merits of the case;

(vi) Writ Petition No.1540 of 2018 stands disposed off.

(PRAKASH D. NAIK, J.)

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