

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.5068 of 2018 & Crl.M.P. No.2525 of 2018

Noushad Thazhaith

Petitioner/Accused No.2

VS.

1 State represented by its
Deputy Superintendent of Police
CB-CID, Special Investigation Team
Coimbatore
Cr. No.2111 of 2002
(B4 Race Course Police Station)
...1st Respondent/Complainant

2 The Regional Passport Officer
Regional Passport Office
Kozhikode
Eranninpalam Post
Kozhikode 673 006
Kerala State
...2nd Respondent/Passport Authority

Criminal Original Petition filed under Section 482 Cr.P.C.
seeking to direct the second respondent to grant passport to the
petitioner for a period of ten years to travel abroad pending
criminal case in P.R.C. No.2 of 2013 on the file of the Judicial
Magistrate No.III, Coimbatore.

For petitioner Mr. N. Manokaran

For R1 Mrs. Kritika Kamal, P.
Govt. Adv. (Crl. Side)

For R2 Mr. N. Vijaya Baskar

ORDER

This Criminal Original Petition has been preferred seeking
to direct the second respondent to grant passport to the
petitioner for a period of ten years to travel abroad pending
criminal case in P.R.C. No.2 of 2013 on the file of the Judicial

Magistrate No.III, Coimbatore.

2 On 27.04.2018, this Court passed the following order:

"The petitioner is facing trial in PRC No.2 of 2013 before the Judicial Magistrate No.III, Coimbatore for the offences under Section 4 (a) and 6 r/w 4(G) of the Explosive Substance Act, 1908. The petitioner has filed a quash application in Crl.O.P. No. 3532 of 2018 challenging the prosecution and the same is pending before this Court. The petitioner is a owner of the Indian Passport bearing No. H 5939876 issued at Kozhikodu Kerala on 09.09.2009 valid upto 08.09.2019.

2. It is the case of the petitioner that he has business interest in the Middle East and that he has been going abroad frequently on valid visa. It is his further case that the pages in his passport got exhausted and therefore when he applied for a fresh passport, the Passport Authorities directed him to obtain necessary permission under Section 6(2)(f) r/w Section 22 of the Passports Act r/w Notification No. GSR 570-E dated 25.08.1993. Hence, the petitioner has filed the present application for permission.

3. Heard Mr. N. Manokaran, learned counsel for the petitioner, Mr. C. Raghavan for the respondent police and Mr. N. Vijaya Baskar for 2nd respondent Passport Authorities.

4. Under normal circumstances, in the case of this nature, this Court would not grant permission for the petitioner to go abroad. However, it is seen that this petitioner has been granted permission earlier by the learned Judicial Magistrate No.III, Coimbatore vide order dated 03.11.2015 in CMP No. 4280/ 2015 and by this Court in Crl.O.P. No.22055/2016 dated 10.02.2017. The learned Judicial Magistrate No. III, Coimbatore in his order dated 03.11.2015 has noted that the petitioner has been appearing regularly before the Court from 2013 onwards and because of the failure of the prosecution to summon to the other courts, the Magistrate is not able to commit the case to the Court of Sessions. Only this aspect has weighed by this Court for positively considering the request of the petitioner. The law with regard to grant of permission for renewal of passport has been settled by this Court in N. Chandrababu vs. Sub Inspector of Police Palakkarai Police Station, Trichy [2017 (3) CTC 493] and it may not be necessary to

recapitulate the legal prepositions.

5. Suffice it to say that when the criminal case is pending before a court, passport can be issued or renewed only on the basis of production of orders from the concerned court permitting the applicant to depart from India. In notification NO.GSR 570 E, the conditions under which a passport or travel documents could be issued has been enumerated. Taking into consideration the earlier conduct of the petitioner, as noted by the Judicial Magistrate No.III in his order dated 03.11.2015, this Court grants permission to the petitioner to depart from India and return within a period of six months from the date of receipt of a copy of the order. The exemption is granted to the petitioner from the operations of the provisions of clause (f) sub section (2) of Section 6 of the Passports Act, for a period of six months from the date of receipt of a copy of this order. The petitioner shall abide by the conditions set out in the notification dated 25.08.1993.

Post the Crl.O.P. No. 3532 of 2018 for final disposal on 20.06.2018 at 2.15 p.m."

3 Mr. N. Manokaran, learned counsel for the petitioner submitted that pursuant to the order dated 27.04.2018, the petitioner went abroad and has returned.

4 However, it is seen that this Court has granted exemption for a period of eight months which period has not expired as of today. In such perspective of the matter, no further order is required to be passed in this case and accordingly, this Criminal Original Petition is closed. Connected Crl.M.P. is closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

cad

To.

1. The Judicial Magistrate III
Coimbatore

2. Do Chief Judicial Magistrate
Coimbatore.

3 The Deputy Superintendent of Police
CB-CID
Special Investigation Team
Coimbatore

4 The Regional Passport Officer
Regional Passport Office
Kozhikode
Eranhinpalam Post
Kozhikode 673 006
Kerala State

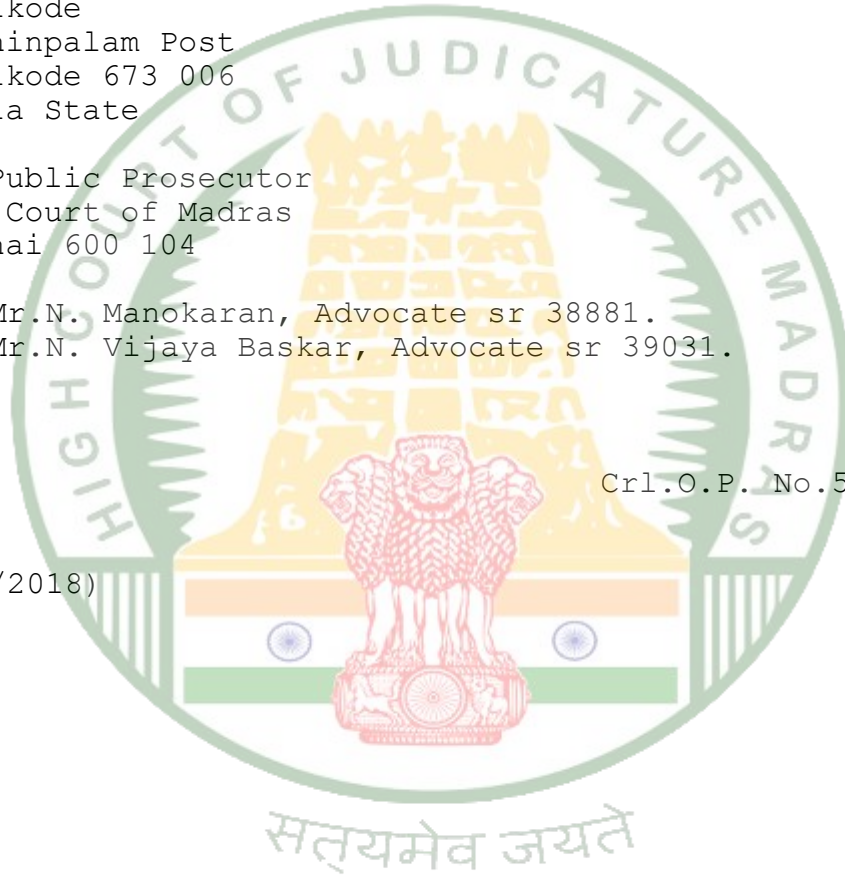
5 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1 CC to Mr.N. Manokaran, Advocate sr 38881.

+1 CC to Mr.N. Vijaya Baskar, Advocate sr 39031.

Cr1.O.P. No.5068 of 2018

RSY (CO)
GSP (05/07/2018)



WEB COPY