

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on :06.06.2018

Orders Pronounced on: 27.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.495 of 2018

Dhanasekaran ...Petitioner/Petitioner/Accused 8

Vs.

State represented by
The Deputy Superintendent of Police,
Economic Offence Wing-II,
Coimbatore. ...Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records in Crl.M.P.No.3750 of 2017 in C.C.No.15/2015 on the file of learned Special Judge for TNPID cases at Coimbatore and set aside the order dated 07.03.2018 and consequently direct the trial Court to issue No Objection Certificate for renewal of Passport Bearing No.G2393952.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mr.R.Surya Prakash,
Govt.Advocate (Crl.side)

O R D E R

The Criminal Revision case has been filed under Section 397 read with 401 Cr.P.C, to call for the records in Crl.M.P.No.3750 of 2017 in C.C.No.15 of 2015 on the file of learned Special Judge for TNPID Cases, at Coimbatore and set aside the order dated 07.03.2018 and consequently direct the trial Court to issue No Objection Certificate for renewal of Passport Bearing No.G2393952.

2. The petitioner is the 8th accused in C.C.NO.115 of 2018 in Crl.M.P.No.3750 of 2017 filed under Section 5 of the Passport Act for issuance of No Objection Certificate, before

the TNPID Court, for renewal of his passport having Passport No.G2393952.

3. The petitioner has been arrayed as 8th accused on the basis of the complaint given by one S.Baladandayutham on 26.02.2010 and he was charged for the offences under Section 120 (B), 420, Section 506(ii) IPC and Section 5 of TNPID Act, 1997 and as per the Charge Sheet, an amount to the tune of Rs.21,64,82,450/- has been defaulted by the financial institution and on the basis of the complaint given by Baladandayutham, the case has been registered and subsequently after investigation, Charge Sheet has been filed and the case has been taken on file in C.C.No.15 of 2015. The petitioner, who is a passport holder, applied for renewal of his passport, but the Passport Office asked for "No Objection Certificate" from the competent Court for renewal of the passport bearing No.G-2393952. Hence, the petitioner has filed a petition before the Court below for issuing "No Objection Certificate" by this Court.

4. The respondent filed a counter. The learned Government Advocate (Crl.side) has submitted that on the basis of counter that the case has been registered by City Crime Branch Police, Coimbatore and subsequently, the case has been transferred to EOW-II, Coimbatore in Crime No.12/2010 and as per the investigation, nearly Rs.21,64,82,450/- collected from the 43 depositors had been defaulted by the petitioner and after investigation and after filing Charge Sheet, the case has been taken on file in C.C.No.15 of 2015, in which the other accused, namely S.Sudharsan (A5), R.Seshagiri Rao (A6) and S.Deepa (A7) are still absconding and NBW is pending against them. Hence, if the No Objection Certificate is given to the petitioner (A8), he will flee from India.

5. After hearing both the parties, the Special Session Judge has held that since the passport has already expired on 3.4.2017, but the petition is filed only on 26.09.2017 and hence, the Court below rejected the contentions of the accused and dismissed the petition.

6. After perusing the order of Hon'ble Thiru Justice B.Rajendran in Crl.R.C.No.901 of 2015, dated 10.09.2015, a similar situation has been dealt with by the learned Judge, as he then was, and he has allowed the Crl.R.C., subject to certain conditions. After perusing the records in this case and on going through the orders passed in above cited decision, I am inclined to allow this petition on condition that:-

(i) The petitioner shall file an affidavit of undertaking before this Court as well as before the trial Court,

within a period of ten days from today, to the effect that he will not leave the country, even after the renewal of Passport without the permission of the trial Court.

(ii) After getting the Passport renewed, the petitioner shall approach the trial Court seeking further permission to leave the country. Without further permission of the trial Court, the petitioner cannot leave the country.

(iii) On such application, it is made clear that the trial Court can decide the claim of the petitioner on its own and shall impose necessary conditions as it deems fit in accordance with law independently.

7. With the above conditions, this Criminal Revision Petition is allowed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

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To

The Special Judge,
Coimbatore (TNPID)

+lcc to Mr.R.Vivekanandhan, Advocate SR.No.40638

Cr1.R.C.No.495 of 2018

SKS (CO)
GN(10/07/2018)

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