

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.633 of 2018

&

Crl.M.P.No.193 of 2018

R.Chandrasekar

...

Petitioner

Vs.

1. The Regional Passport Officer,
Regional passport Office,
Municipal Water Tank Building,
W.B.Road,
Trichirappalli - 620 008.

2. The Inspector of Police,
Crime Branch CID,
Nagappattinam District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to grant permission to the petitioner to go to abroad till the pending disposal of the Criminal Appeal in CA No. 30 of 2015 on the file of the Sessions Judge, Nagappattinam.

For Petitioner : Mrs.Greetha senthilkumar

For Respondent 1: Mr.J.Madhanagopal,
Standing Counsel

For Respondent 2: Mr.R.Ravichadran
Government Advocate (Crl. Side)

O R D E R

The prayer sought for in this petition is to grant permission to the petitioner to go abroad pending disposal of the Criminal Appeal in CA No. 30 of 2015 on the file of the learned Sessions Judge, Nagappattinam.

2. By an order dated 16.08.2013, the petitioner's passport number F9591485 came to be impounded. On a perusal of the said impugned order, it is seen that the order is a non speaking order. The averments therein state that a decision has been taken to impound the petitioner's passport. What is the

reasoning for such decision has not been spelt out in the said impugned order. Furthermore, the first respondent has not issued any prior notice to the petitioner calling for explanation as to why the passport should not be impounded thereby depriving his right to give an explanation.

3. The learned standing counsel for the first respondent submits that this decision has been taken based on an appeal filed by the second respondent which is pending.

4. The learned counsel for the petitioner submits that a false case has been foisted against him, based on which, charges have been framed, and after due trial, the petition came to be concluded that the offence laid therein was purely civil in nature. Against the order of acquittal an appeal has been filed.

5. It is needless to point out that whatever a decision is taken to impound the passport, it would be incumbent on the part of the respondent authorities to spell out the reason for such decision taken. Furthermore, such a decision without calling for explanation would be violation of principles of natural justice. Therefore, the present act on the part of the respondent, calling them to surrender the passport is violative of the petitioner's fundamental rights. As such, the consequential act of the petitioner in surrendering the passport to the first respondent and the returning of the petitioner's passport by the first respondent are illegal.

6. I am also unable to comprehend as to how the respondents are justified to impound the passport of the petitioner quoting the pendency of the appeal as a ground to withhold the petitioner's passport. Under these circumstances, it would be appropriate to direct the first respondent to return the passport of the petitioner herein.

7. In the result, there shall be a direction to the first respondent to return the original passport bearing number H9235892 dated 07.10.2010 forthwith to the petitioner and in any event within a period of one week from the date of receipt of a copy of this order.

8. Consequently, the petitioner will be at liberty to travel in and out of the country without further reference to the appeal pending against him. However, the petitioner herein is directed to inform the respondents as to the details of the travel proposed by him and such information shall also reveal the date of travel, the petitioner's contact details and his place of stay outside the country, during such travel. The petitioner shall also file an affidavit to that effect before the respondents.

9. With the above observations, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

vum/nl

To

1.The Sessions Judge, Nagapattinam.

2. The Regional Passport Officer,
Regional passport Office,
Municipal Water Tank Building,
W.B.Road,
Trichirappalli - 620 008.

3. The Inspector of Police,
Crime Branch CID,
Nagapattinam District.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Madanagopal Rao, Advocate SR.No.6301

+1cc to Mrs.Greetha Senthil Kumar, Advocate SR.No.6540

Cr1.O.P.No.633 of 2018
& Cr1.M.P.No.193 of 2018

PA(CO)
GN(14/02/2018)

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