

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.8544 of 2018

V.Balagurusamy ... Petitioner

Vs.

State through
The Inspector of Police
W-8, All Women Police Station
Thirumangalam,
Chennai 600 040.
(Crime No.11 of 2011)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to permit the petitioner to travel abroad and visit his son namely Dr.Saravanan Balaguruswamy residing United Kingdom for during the period between April 2018 to August 2018.

For Petitioners : Mr.R.Ganesh Kumar

For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

ORDER

The prayer in the present petition is to permit the petitioner to travel abroad and visit his son namely Dr.Saravanan Balaguruswamy residing in United Kingdom during the period between April 2018 and August 2018.

2. It is submitted by the learned counsel for the petitioner that, in view of the pendency of the criminal proceedings in C.C.No.3792 of 2012 on the file of the learned X Metropolitan Magistrate (Allikulam), Egmore, Chennai 600 008, the petitioner's application for issuance of travel documents for the purpose of visiting the United Kingdom has been denied. It is seen that the impugned proceedings pertains to matrimonial dispute, wherein the petitioner has been charged with an offence

under Section 498 A of IPC among other Sections.

3. Challenging the said charge sheet in C.C.No.3792 of 2012 on the file of the learned X Metropolitan Magistrate (Allikulam), Egmore, Chennai 600 008, the petitioner has filed petition to quash the proceedings before this Court in Crl.O.P.No.25797 of 2014 and by an order dated 18.09.2014, proceedings have been stayed pending the Criminal Original Petition.

4. It is in this backdrop that this petition has been filed, seeking permission to travel abroad. In this connection, it would be appropriate to refer to a Gazette notification issued by the Ministry of External affairs, Government of India, which reads as follows:-

MINISTRY OF EXTERNAL AFFAIRS
NOTIFICATION

New Delhi, the 25th August 1993

G.S.R. 570(E). - In exercise of the powers conferred by clause(a) of Section 22 of the Passports Act 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No.G.S.R.298(E), dated the 14th April 1976, the Central Government being of the opinion that it is necessary in public interest to do, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the Court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely :-

(a) The passport to be issued to every such citizen shall be issued -

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the

passport shall be issued for one year ; or

(iv) If such order gives permission to travel abroad for a period exceeding one year and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a) (ii) and (a) (iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified.

(c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period of travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.

(No.V1/401/37/79)

/sd/

5. The above notification is self explanatory and as such, the mere pendency of the criminal proceedings will not prevent the petitioner to travel abroad for which purpose issuance of travel permit or Visa is necessary. As such, the petitioner would be at liberty to travel in and out of the Country, without reference to any pendency of the criminal proceedings.

6. It is also pertinent to mention that on several earlier occasions, the travel permit was refused by the authorities which made the petitioner to approach this Court, seeking for similar direction. One, such order reads as follows:-

5. It is seen that the proceedings in C.C.No.3792 of 2012 has been stayed by this Court in CrI.O.P.No.25797 of 2014 on 18.09.2014 and the stay is still in force. The petitioner has roots in India and there are reasons to believe that he will not abscond. It is also brought to the notice of this Court that earlier, in CrI.O.P.No.9586 of 2013, this Court had passed an

order on 29.04.2013 granting permission to the petitioner to visit the United Kingdom. Thereafter, this Court had also passed an order on 12.06.2015 in CrI.O.P.No.14275 of 2015 granting permission to the petitioner to visit the United Kingdom and Singapore.

6. Under such circumstances, permission is granted to the petitioner to visit the United Kingdom. The petitioner shall appear before the X Metropolitan Magistrate, Egmore, Chennai and file an affidavit disclosing his address in the United Kingdom and also about his itinerary. On such affidavit being filed with petition, the learned X Metropolitan Magistrate, Egmore, Chennai, is directed to accept the same and formally grant permission to the petitioner.

7. In view of the above discussion, it would be appropriate to permit the petitioner to travel outside the Country. Consequently, the Criminal Original Petition stands allowed, with the observations that the petitioner is permitted to leave the Country for the purpose of visiting the United Kingdom.

8. In this connection, the petitioner shall appear before the learned X Metropolitan Magistrate, Egmore, Chennai and file an affidavit disclosing his address in the United Kingdom and also about his itinerary. On such affidavit being filed with petition, the learned X Metropolitan Magistrate, Egmore, Chennai, is directed to accept the same and formally grant permission to the petitioner.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

dna

To

1.The X Metropolitan Magistrate,
Egmore,
Chennai.

2.Do-Through Chief Metropolitan Magistrate,
Egmore, Chennai.

WEB COPY

3.The Inspector of Police
W-8, All Women Police Station
Thirumangalam,
Chennai 600 040.
(Crime No.11 of 2011)

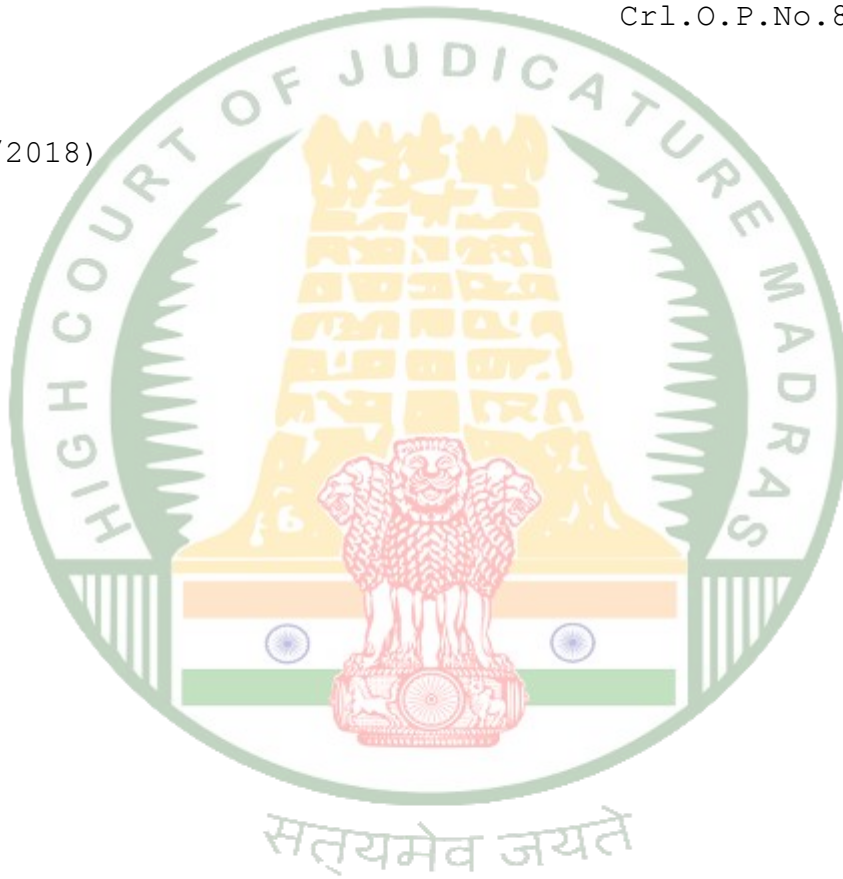
4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.Ganesh Kumar, Advocate, S.R.No.23322

CrI.O.P.No.8544 of 2018

MG(CO)

RRK(16/04/2018)



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