

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2018

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

Crl.O.P. No.28974 of 2017

Atul Davidas Paikane

Petitioner

vs.

1.The Passport Officer
Panaji, Goa.

2.The Inspector of Police
CB CID, Metro Wing
Egmore,
Chennai 600 008.

Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. to direct the 2nd respondent to issue "No Objection" in order to consider issue of Jumbo Passport Booklet to the petitioner herein by the 1st respondent Passport Authority in view of the currency of the valid Passport No.Z 1986897 period which expires only on 07.11.2022.

For petitioner

Mr.N.Jothi
for Mr.T.R.Sundaram

For R1

Dr.D.Simon
CGSC

For R2

Ms.Kritika Kamal P
Government Advocate (Crl.Side)

ORDER

This petition has been filed to direct the 2nd respondent to issue "No Objection" in order to consider issue of Jumbo Passport Booklet to the petitioner herein by the 1st respondent Passport Authority in view of the

currency of the valid Passport No.Z 1986897 period which expires only on 07.11.2022.

2. On the complaint lodged by one Anbazhagan, the second respondent police registered a case in Cr.No.209 of 2010 and after completing the investigation, have filed a charge sheet in C.C.No.126 of 2015 before the Judicial Magistrate No.I, Chengalput for the offence under Section 420 IPC read with 34 IPC against Atul Davidas Paikane [A1] and 7 others.

3. It is the case of the prosecution that A1 was the Managing Director of Power Engineering (India) Pvt. Ltd., Mahalsa Acoustics Pvt. Ltd., Creative Manufacturing Solutions and Power Engineering Sales Ltd., (U.K.); that the de facto complainant planned to set up a renewable power project and obtained necessary clearance from the Government and was also sanctioned a loan of Rs.10.90 crores from State Bank of India; that A1 approached the de facto complainant and promised to secure him eight number of bio gas gensets at Rs.77 lakhs from Netherlands to be supplied in two phases; that the parties entered into several agreements, under which, the time period was extended for the supply and that there was short supply of some parts. Hence, the complaint and the FIR.

4. Challenging the prosecution in C.C.No.126 of 2015, three of the accused, including A1, have filed quash applications, in which, this Court has

dispensed with the personal appearance of the accused before the trial Court. To be more precise, A1 has filed CrI.O.P.No.29825 of 2017 for quashing the prosecution and the same is pending on the file of this Court.

5. A1 is the holder of Indian Passport bearing No.Z 1986897 issued in Goa valid from 08.11.2012 to 07.11.2022. Since A1 was required to go abroad frequently, he has been issued with visas from time to time, on account of which, the pages in his passport got exhausted. When A1 made an application to the first respondent seeking additional pages for his passport, the first respondent refused to process the same on the ground that he is facing a prosecution before a criminal Court in India and that he should have to obtain permission from the Court concerned permitting him to depart from India, so that the exemption from that portion of Section 6(2)(f) of the Passports Act can be availed of. Therefore, A1 is before this Court.

6. Heard Mr.N.Jothi, learned counsel for the petitioner, Dr.D.Simon, learned Central Government Standing Counsel for R1 and Mrs.Kritika Kamal P, learned Government Advocate (CrI.Side) for the State.

7. The legal issue governing the subject has already been discussed in detail by a judgment of this Court in **N.Chandrababu vs. The Sub-Inspector of Police, Palakkarai Police Station, Trichy [2017 (3) CTC 493]**, wherein, this Court has discussed the provisions of Section 6(2) of

the Passports Act and the notification dated 25.08.1993 issued by the Central Government on the subject. Suffice it to extract paragraph 5 of the said judgment:

"5. From a reading of the aforesaid Notification, in the opinion of this Court, the expression 'concerned Court' will mean the Court before whom the person is facing the prosecution. In this case, had there not been a quash petition pending, the 'concerned Court' would be the learned Judicial Magistrate No.V, Trichy before whom the petitioner is facing trial in C.C.No.21 of 2015. However, this Court, in exercise of its power under Section 482 of Cr.P.C., has admitted CrI.O.P.(MD)No.3533 of 2017 and has granted stay of all further proceedings in C.C.No.21 of 2015 on the file of Judicial Magistrate No.V, Trichy. Under such circumstances, the expression 'concerned Court' in the context of the present case will mean the High Court and not the Judicial Magistrate No.V, Trichy."

In the present case, since the quash application is pending in the High Court, the expression "concerned Court" found in the notification dated 25.08.1993 would mean only the High Court.

8. Now coming to the facts of the case, it is seen that the allegation against the petitioner in the charge sheet is that he had committed breach of the contract. Since the allegation was *prima facie* civil in nature, this Court had thought it fit to entertain the quash application in CrI.O.P.No.29825 of 2017 and has dispensed with the personal appearance of A1 before the trial Court. During the pendency of the prosecution, the petitioner had gone abroad several times and returned. The petitioner is a

permanent citizen of India and has subsisting business interest in the Country. The petitioner is only seeking additional pages for his passport.

9. Therefore, this Court is of the view that this is a fit case, in which, permission should be granted to the petitioner to go abroad in terms of the notification dated 25.08.1993. Accordingly, the first respondent is directed to issue additional pages for the passport of the petitioner.

This petition is ordered with the above direction.

10.04.2018

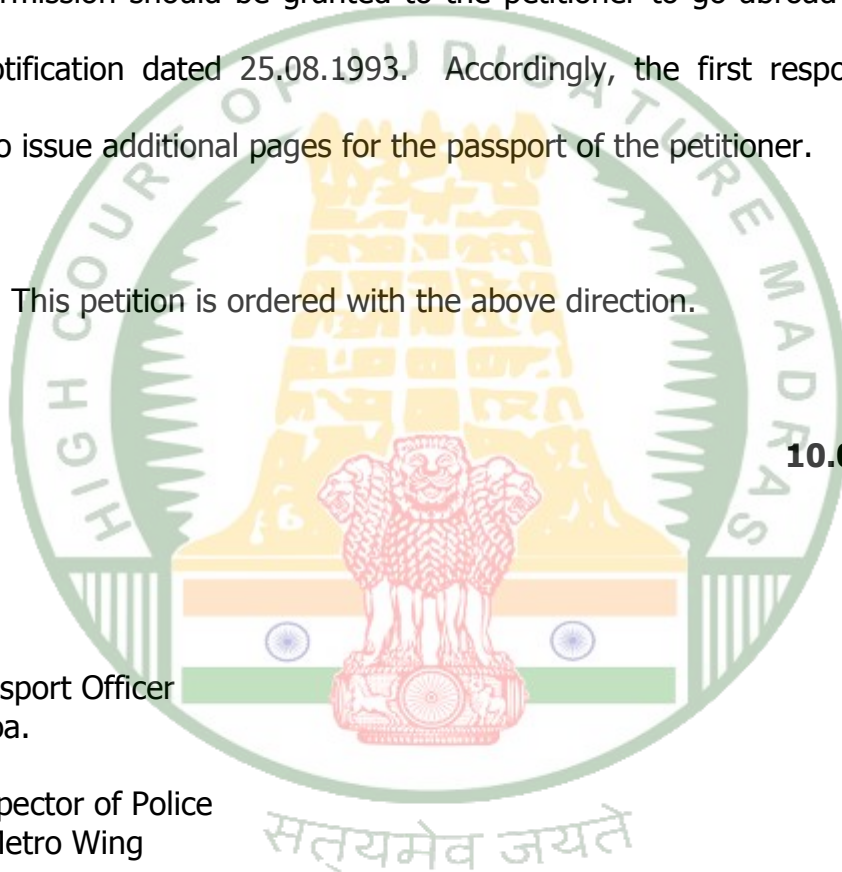
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To

1.The Passport Officer
Panaji, Goa.

2.The Inspector of Police
CB CID, Metro Wing
Egmore,
Chennai 600 008

3.The Public Prosecutor,
High Court, Madras.



P.N. PRAKASH, J.
gms



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