

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Cr1.R.C.No. 1435 of 2018

C.Muthusanjeevi

.. Petitioner/Accused-16

Vs.

The State Rep. by its
Inspector of Police
SPE / CBI / ACB/ Chennai
in RC 23(A)/2007

.. Respondent/Complainant

PRAYER:Criminal Revision case has been filed under Sections 397 and 401 Cr.P.C, to set aside the Order of C.M.P.No.2709 of 2017 in C.C.No.12 of 2010 dated 30.11.2017 on the file of the Second Additional District Judge (CBI Cases) Coimbatore (Conferment of Criminal Jurisdiction) and return back the passport of the petitioner bearing No.E0044685.

For Petitioner : Mr.K.Mohanamurali

For Respondent : Mr.K.Srinivasan
Spl. P.P. (CBI Cases)

J U D G M E N T

This Criminal Revision Petition has been filed by the petitioner under Sections 397 and 401 Cr.P.C, to set aside the Order of C.M.P.No.2709 of 2017 in C.C.No.12 of 2010 dated 30.11.2017 on the file of the Second Additional District Judge (CBI Cases) Coimbatore (Conferment of Criminal Jurisdiction) and return back the passport of the petitioner bearing No.E0044685.

2.The learned counsel for the petitioner would submit that the petitioner is A14 who was implicated for the offences under Section 120B r/w 420, 468, 468 r/w 471 and 419 IPC and Section 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. After the completion of investigation, the CBI filed a charge sheet, the documents relied upon by the prosecution has been listed and the passport of the petitioner has not figured in the said list. Hence the prosecution is not relying the passport of

the petitioner as one of the documents to prove his case.

3. Therefore, the petitioner has filed a petition under Section 451 of Cr.P.C. on the ground that the petitioner is doing export oriented business and in order to cater to his business he is in need to travel abroad. Due to implication of the petitioner by the CBI in the above case, he was not able to carry out his business as early due to that he was suffering financial loss for years together. At present, the petitioner wants to travel abroad to find customers to revitalise and stabilise his business. Hence, he needs his passport to commence the business actively. Accordingly, he prays for the return of his passport No.E0044685. The learned counsel for the petitioner would further submit on instructions that he is ready to furnish any security for releasing of his passport and ready to abide by any conditions imposed by this Court.

4. The learned Special Public Prosecutor filed a counter on behalf of CBI stating that the trial of the case is pending. During the period of 2001 to 2004, the accused A1 to A17, the deceased accused M.Raju and approvers entered into a criminal conspiracy to cheat the customs department and the Government of India in the matter of availing fraudulent duty drawback incentives by exporting the low priced goods and over invoicing its value in the invoices, Shipping bills & other documents and claiming the duty incentives on the inflated value and sanctioning of the same by the said customs officers. Charge sheet for the offences under Sections 120B r/w 420, 468, 468 r/w 471 and 419 IPC and Section 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 against 17 accused were filed before the Court of CBI Cases, Coimbatore and the same is pending trial before the Court for CBI Cases. The petitioner and other accused have caused a total loss of Rs.7 crores.

5. The learned Public Prosecutor would further submit that the accused persons in this case have been filing several petitions in order to prolong the smooth conduct of trial. At this juncture, if the passport of the petitioner is returned, there is every likelihood that the petitioner will flee from the country and will not return to India. There is every possibility that the petitioner will not appear before the Court for trial in the case. He will evade the due process of law and will abscond and stay back permanently in abroad. In that event, the trial may be inordinately delayed. In the event of returning the passport to the petitioner, there is a chance, he may go abroad, and it will be difficult to secure his presence for the trial of the case in India. The criminal charges against him is still pending before this Court.

6.The Public Prosecutor would further submit that earlier occasion, the petitioner was not cooperating with the trial and absconded. Hence, the Trial Court issued NBW on 19.01.2018. However, he was secured with great difficulty and appeared only on 31.08.2018. If the passport releases in his favour, there may not be any progress in the case and vehemently opposed for allowing this revision.

7.Considering the facts and circumstances of the case and also considering the fact that in the earlier occasion, NBW was issued and subsequently it was recalled. The fact remains that the petitioner is an exporter. He has also entered into a criminal conspiracy to cheat the customs department and the Government of India to the tune of 7 crores. Further on perusal of records it appears that the case is pending from 2010 onwards. For one or other reason the trial is not completed as on date. If the petitioner's passport is released in his favour, then trial of the case will be stalled. Considering the fact that the trial is also in progress and if the passport of the accused is returned to him, he will evade the due process of law and fair chances of abscond, this Court is not inclined to allow this revision.

8.Accordingly, this Criminal Revision Petition stands dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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1. The II Additional District Judge (CBI Cases), Coimbatore.
2. The Inspector of Police,
SPE/CBI/ACB/Chennai.
3. The Public Prosecutor,
High Court, Madras.

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CA(CO)
CSL/10.01.2019