

THE HON'BLE SRI JUSTICE P.KESHAVARAO

CRIMINAL PETITION No.5113 of 2018

ORDER:

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

The brief facts of the case are that the marriage of the petitioner was performed with the 1st informant on 21.08.2010. On 11.11.2010 the 1st informant joined the company of the petitioner. On 27.11.2013 they were blessed with a child. Thereafter, disputes arose between them. During August, 2015, the petitioner came to India from Kenya. However, the 1st informant was not interested to join the petitioner due to her personal reasons. In fact, the petitioner sent huge amounts in the name of the 1st informant and her parents to be utilized for their business purposes. During August, 2015 the petitioner lost his passport bearing No.L9996949, dated 04.07.2014 and he applied for a fresh passport and the same was issued after thorough verification, vide Passport No.30459978, dated 16.12.2016. The petitioner is working in Dubai and the employer gave leave for only one month. The petitioner has applied for interim custody of passport before the court below, vide CrI.P.MP.No.2804/2018, and the same was dismissed on 18.04.2018.

A perusal of the order, dated 18.04.2018, would indicate that there is serious allegation that the passport seized by the police is a duplicate passport. Therefore, the same cannot be returned to the petitioner. It is also observed that if the passport is returned, there is every possibility of the petitioner going abroad. As such, there must be some verification which must be done in that regard, and until and unless the investigation is done with regard to the genuineness of the seized passport, the court below is not inclined to return the passport to any party.

After hearing the learned counsel for the petitioner as well as the learned Public Prosecutor, and after perusal of the material on record, this court, under Section 482 Cr.P.C, cannot decide as to the genuineness of the passport, which was surrendered by the petitioner, vide Passport No.30459978, dated 16.12.2016.

Be that as it may, as the court below has already dismissed the petition observing that until and unless the investigation is done with regard to the genuineness of the seized passport it cannot be returned to any party, the same has to be taken to a logical conclusion either by way of referring it to the competent authority for verification or otherwise.

Learned counsel, appearing for the petitioner, would submit that having dismissed the petition, the court below cannot sit over the matter. The learned counsel also requests this court that the passport, vide No.30459978, dated 16.12.2016, may be referred to the competent authority for verification, since the petitioner has to go to Dubai on his employment.

In these circumstances, the petitioner is permitted to file an application before the Court below for referring the passport bearing No.30459978, dated 16.12.2016 to an appropriate authority, within a period of one week from the date of receipt of a copy of this order, and on filing such petition, the court below shall dispose of the same, in accordance with law, within one week therefrom.

With the above observations, the Criminal Petition is disposed of.

P.KESHAVARAO,J

Date: 02.05.2018
Dsr

Note:
Furnish copy today itself
B/o
Dsr