

HONOURABLE SRI JUSTICE N. BALAYOGI
CRIMINAL REVISION CASE No.2505 of 2018

ORDER:

This Criminal Revision is filed under section 397 and 401 of Cr.P.C., aggrieved by the orders passed by the learned XXI Metropolitan Magistrate, Cyberabad at Medchal, Ranga Reddy District in Criminal M.P. No.1297/2018 in Crime No.556/2018, dated:24.8.2018.

2. Heard the learned Counsel for the petitioner and the learned Public Prosecutor and perused the material placed on record.

3. The petitioner is an accused in Crime No.556/2018 filed by the husband for the offence punishable under section 406, 420 and 494 IPC. Investigation is in progress. Petitioner herein filed CrI.M.P. No.1218/2018 in Cr.No.556/2018 under section 437 of Cr.P.C., for grant of bail. She was granted bail on 02.8.2018 on her executing personal bond for a sum of Rs.5,000/- with two sureties each like to the satisfaction of the Court on a condition that the petitioner/accused shall deposit her passport before the Court. In pursuance of the said orders, the petitioner has deposited passport in the Court. Subsequently, petitioner filed Criminal Petition No.8557/2018 to quash the proceedings in Crime No.556 of 2018. While disposing of the said petition on 14.8.2018, this High Court passed order stating that, "this Court cannot pass orders relaxing the conditions imposed by the Court below. However, liberty is given to the petitioner to file

appropriate application before the Court below and on filing such application, the Court below is directed to dispose of the same within a week from the date of filing the application in accordance with law.”

4. It is the further contention of the petitioner that pursuant to the said orders, the petitioner filed Criminal M.P. No.1297/2018 before the Trial Court for relaxation of the conditions. The Trial Court dismissed the petition finding that she failed to show any convincing reason or any changed circumstances from the date of imposing condition to the date of seeking relaxation of that condition, more particularly when the said condition was imposed on specific objection of prosecution for grant of bail. Further, investigation is yet to be completed and if the petition is allowed, it would be very difficult for the State to secure the presence of accused. Aggrieved by the same, the present Revision is filed.

5. On a reading of the petition shows that the petitioner has not stated any sufficient reasons for reduction of relaxation of the conditions. A perusal of the petition in CrI.M.P. No.1297/2018 at para No.4 and 5, the petitioner has specifically stated that she joined Qatar Airways as cabin crew on 20-1-2018 and she alone is the earning member of the family and her parents and younger brother are dependents on her income and due to prolong illness, her father died recently on 19.7.2018 and that she also got financial responsibility to repay the home loan to LIC housing loan apart from the other loans borrowed for the treatment of her father. She further stated that her educational qualification certificates/documents are kept at employment accommodation at Doha including her experience

certificate and other important Indian Identity documents and as petitioner is still in probation period and yet to complete two months more and that her contract with Qatar Airways for a period of three years and any breach of contract will make the petitioner liable to pay 5000 Riyals. Further, without the passport, there is every possibility of losing her job and also makes liable for breach of contract with Qatar Airways.

6. In view of the specific statement that she is working as Cabin Crew in Qatar Airways and she is on probation and further there is a contract with Qatar Airways for a period of three years and in case of breach of contract, she is laible to pay 5000 Riyals, passport is necessary for her job.

In the decision relied on by the learned Counsel for petitioner in the case of Suresh Nanda Vs. Central Bureau of Investigation¹ where it was held that, Police may have the power to seize a passport under section 102(1) CrPC, it does not have the power to impound the same. Impounding of a passport can only be done by the Passport Authority under Section 10(3) of the Passports Act, 1967. Hence, while the police may have power to seize a passport under section 102 CrPC, if it is permissible within the authority given under Section 102 CrPC, it does not have power to retain or impound the same, because that can only be done by the Passport Authority under section 10(3) of the Passports Act.

That, in her case, passport is not seized by the police or it was impounded. She surrendered the passport as per the punishment imposed while granting bail. Therefore, passport is necessary for her

¹ (2008) 3 Supreme Court Cases 674

job and thus, she is entitled to return the passport. Hence, while setting aside the order of the trial Court in Criminal M.P. No.1297/2018 in Crime No.556/2018, dated:24.8.2018, it is ordered to return the passport to the petitioner on her executing personal bond for a sum of Rs.5,000/- with two sureties each like to the satisfaction of the XXI Metropolitan Magistrate, Cyberabad at Medchal.

7. Accordingly, the Criminal Revision Case is disposed of.

Pending Miscellaneous Petitions, if any, shall stand closed.

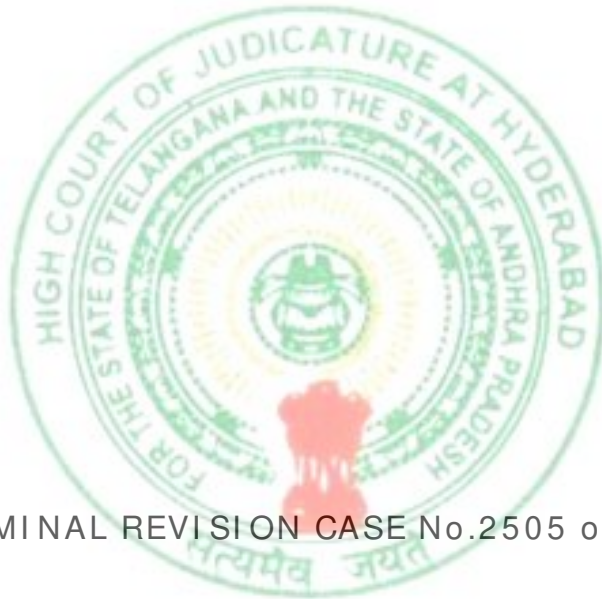
Dated:28-09-2018

(issue C.C. by Monday ie., 01-10-2018)
(B/O)
gnr



JUSTICE N. BALAYOGI

HONOURABLE SRI JUSTICE N. BALAYOGI



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Dated:28-09-2018

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