

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.32505 of 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that Hon’ble Court may be pleased to issue a writ or writs or order or orders one more particularly in the nature of Writ of Mandamus to declare the action of the 3rd Respondent in impounding/seizing the Petitioners Passport bearing No.K8904397 issued by the Passport Officer, Visakhapatnam as without jurisdiction, illegal, arbitrary and unconstitutional and consequently direct the 3rd Respondent to forthwith return the Petitioners Passport bearing No. K8904397 issued by the Passport Officer, Visakhapatnam and be pleased to pass such other order or orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. I have heard the submissions of Sri *Syed Khader Mastan*, learned counsel appearing for the petitioner; and of the learned Government Pleader for Home (A.P.) appearing for the respondent 1 to 3. I have perused the material record.

3. Learned counsel for the petitioner submits that during the course of investigation into case in Crime No.99 of 2018, registered against the petitioner for the offences punishable under Sections 498-A & 406 of Indian Penal Code, 1860, and Sections 3 & 4 of the Dowry Prohibition Act, 1961, the subject passport of the petitioner was seized by the Investigating Officer without any power conferred upon him by law and without any jurisdiction and that the said act of the Police Officer being contrary to law, the petitioner is entitled to seek return of the passport. He placed reliance on a decision of the Supreme Court reported in **SURESH NANDA v. CENTRAL BUREAU**

OF INVESTIGATION¹ in support of the contention that neither the Police Officer nor a Court are entitled to impound the passport of the petitioner in connection with a crime and that the passport, if it is to be impounded, the provisions under the Passport Act, 1967, which is a special Act are to be followed.

4. Learned Government Pleader for Home, on written instructions, dated 10.09.2018, a copy of which is placed on record, would submit that a charge sheet is filed before the Court of the XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad; that along with the other documents, the passport of the petitioner is also submitted to the Court; and, that, therefore, if the petitioner intends to take return of the passport, it is for him to approach the said Court for return of the passport.

5. Having regard to the facts and submissions, the Writ Petition is disposed of reserving liberty to the petitioner to file an appropriate application before the learned XIII Additional Chief Metropolitan Magistrate, at Nampally, Hyderabad, for return of his passport. It is needless to state that in the event the petitioner files any such application, the learned Magistrate shall consider and dispose of the same, in strict accordance with procedure established by law, however, as expeditiously as possible.

There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE M. SEETHARAMA MURTI

Date: 14th September, 2018
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¹ (2008) 3 Supreme Court Cases 674

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