

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11806 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to issue a direction to the Additional Junior Civil Judge, Bapatla for return of passport No.G 35915731 lying with the Court setting aside the order dated 10.04.2017 passed in CrI.M.P.No.1454 of 2016 in Crime No.1 of 2016 pending on the file of Additional Junior Civil Judge, Bapatla.

The petitioner-Zhou Hongzhen, Managing Director of M/s Guang XI Zhongju Supply, came to India in connection with the business transaction i.e. for purchase of Red Chillies at Guntur. The second respondent-alleged vendor of Chillies, highhandedly snatched away the passport of the petitioner on the pretext that the respondent failed to pay the amount towards value of the Chillies purchased and filed a private complaint before the Additional Junior Civil Judge-cum-Judicial Magistrate of First Class Magistrate at Bapatla, for the offences punishable under Sections 120(b), 420, 406 r/w 34 IPC, 323 and 506 of IPC. The Magistrate, by exercising power under Section 156(3) Cr.P.C referred the case to the police for investigation. The Station House Officer, Vedullapalli Police Station filed final report referring the case as false, while issuing notice to the second respondent herein. The second respondent, having received notice, did not file protest petition till date, as submitted by the learned counsel for the petitioner and that the second respondent allegedly took passport from the petitioner and deposited with the Court along with the private complaint.

The petitioner filed Crl.M.P.No.1454 of 2016 for return of passport, but the same was dismissed by the trial Court, which is now challenged before this Court. The reasons assigned by the trial Court is that there is a possibility of filing protest petition, in such event the petitioner may avoid his appearance to contest the case, in case the Court registers calendar case against the petitioner. Learned counsel for the petitioner submitted that as on today, no such protest petition is pending before the Court. In those circumstances, keeping passport with the Court, detaining this petitioner, who is a foreigner, may lead to serious consequences and his stay in India after expiry of period would be unauthorized and he has to face again a criminal prosecution.

Learned counsel for the placed reliance in **Suresh Nanda v Central Bureau of Investigation**¹ and contended that the Court has no power to impound the passport under Section 10(3) (e) and 10 A of the Passport Act, 1967 and detaining the passport would not serve any purpose and that the petitioner is willing to furnish necessary security for his appearance, in any event of registering any case against him. Therefore, the passport is liable to be returned when no other criminal proceedings are pending against the petitioner and to ensure his appearance in the event of registering any calendar case as consequence of filing protest petition.

Accordingly, the criminal petition is allowed directing the Additional Junior Civil Judge, Bapatla to return the passport No.G 3591573 to the petitioner furnishing security for Rs.1,00,000/- (Rupees one lakh only) for a period of two months and thereafter release the security, if no calendar case is pending against the

¹ (2008)(3) SCC 674

petitioner.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY,J

04.01.2018
kvrn

