

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2019

CORAM

THE HON'BLE MR. JUSTICE R.MAHADEVAN
and
THE HON'BLE MR. JUSTICE P.D.AUDIKEVALU

Crl.O.P. Nos. 485 and 487 of 2019

J.Krishnamoorthy

...Petitioner in
Crl.OP.No.485/2019

J.Sendilnathan

...Petitioner in
Crl.OP.No.487/2019

Vs.

1.The Inspector General of Police
Anti Idol Theft Wing CID
Race Course Road,
Subramaniapuram,
Trichy-20.

2.The Inspector General of Police,
Anti -Idol Theft Wing-CID
Old SIPCOT Building
Industrial Estate, Guindy.

3.The Inspector of Police,
B-1, Sivakanchi Police Station,
Kancheepuram.

4.The Regional Passport Authority,
Chennai.

... Respondents in
both the petitions

Common Prayer : Criminal Original Petitions filed under Section
482 Cr.P.C., to grant permission to the petitioners to travel
abroad particularly to Singapore.

For Petitioners : Mr.D.Baskar

For Respondents : Mr.C.Iyyapparaj, APP

COMMON ORDER

By the instant petitions, the petitioners invoke the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, seeking permission to go abroad, particularly to Singapore.

2.The Petitioners are arraigned among others, as accused in Crime No.727 of 2017 on the file of the third respondent police registered for the offences punishable under Sections 120-B, 420, 403, 406, 409, 468 and 471 IPC. The FIR proceeds to state that one S.Annamalai lodged a complaint alleging that as per the direction of the Commissioner, HR&CE department to make two new Panchaloka idols for the Sri Ekambaranathar Temple in Kancheepuram, the Executive Officer of said temple, in collusion with one Muthaiah Stapathi and other named persons, collected huge sum of money and gold from the devotees without issuing receipts and misappropriated the same and thereby committed the offence of criminal breach of trust, falsification of accounts and fabrication of false documents. Since no action was taken on the said complaint, Section 156(3) Cr.P.C petition was filed by the complainant, which, pursuant to the direction issued by the learned Judicial Magistrate No.I, Kancheepuram vide order dated 20.11.2017 in CMP.No.5001/2017, came to be registered as the present case.

3.It is the case of the petitioners that they are working as Archakas in Arulmigu Ekambaranathar Temple, Kancheepuram and they have been falsely implicated as accused in Cr.No.727 of 2017. However, they appeared for enquiry before the first respondent from 04.02.2018 to 10.02.2018, after the receipt of the summons and they are ready and willing to co-operate with the respondent police for investigation, as and when required. According to the petitioners, they have been asked by the Chief Priest of the Siva Temple at Singapore to participate in Athi Rudra Maha Yagam scheduled to be held therein between 30.01.2019 to 07.02.2019. Hence, they have approached this Court with the present petitions for the aforesaid relief.

4.The learned counsel for the petitioners submitted that every citizen has a fundamental and civil right to go abroad, which cannot be curtailed, during the pendency of a criminal case, unless there is a specific order passed in that behalf based upon material. In other words, according to the learned counsel, till the petitioners are proved to be guilty, their personal liberty cannot be curtailed, which also includes their right to go abroad. Moreover, the visit of the petitioners to abroad is not going to affect the investigation of the case, as

they will come and report, as and when directed by the respondent police. Hence, he prayed that the petitioners be permitted to go to Singapore to attend the Athi Rudra Maha Yagam.

5.The relief sought in these petitions was seriously opposed by the learned Additional Public Prosecutor appearing for the respondents. According to him, the allegation raised against the accused in Cr.No.727 of 2017 is that they collected money and golds from the devotees of the temple and misappropriated the same and that, the investigation of the case is still in progress. He further submitted that the right to travel abroad is not an unfettered right and reasonable restrictions can always be imposed on a person in the interest of justice, if any criminal case is pending against him. Hence, according to the learned Additional Public Prosecutor, if the petitioners are permitted to go abroad, it would adversely affect the investigation of the case.

6.Heard the rival submissions and perused the materials placed before this Court.

7.It is settled law that liberty of an individual cannot be curtailed on the ground that investigation is pending. The right to go abroad and the right to carry on legitimate business or professional activity are undoubtedly valuable rights assured by the Constitution and the same cannot be infringed. However, the said guarantees are subjected to reasonable restrictions, in the interests of public and other considerations. Thus, the question of permitting the accused to go abroad is depending on the facts and circumstances, prevailing at the time, when he/they propose (s) such journey.

8.The petitioners, in these petitions, sought permission to go abroad, for the purpose of attending the Athi Rudra Maha Yagam. The same was opposed by the learned Additional Public Prosecutor, stating that due to the petitioners not being available, the progress of the investigation will be substantially impeded.

9.Though the learned counsel for the petitioners submitted that merely because the petitioners are implicated as accused in a criminal case, their request to go abroad, cannot be denied, this Court, considering the objections raised on the side of the respondents and taking note of the reason for which, the petitioners sought such permission, is not inclined to entertain the present petitions, as there is no compelling or compulsive reason for according permission to the petitioners to go abroad.

10.Both the Criminal Original Petitions are accordingly,
dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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4.The Regional Passport Authority,
Chennai.

5.The Public Prosecutor,
High Court, Madras.

+2cc to Mr.D.Baskar, Advocate sr.6090, 6091

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