

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2019

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

W.A. Nos. 994 & 3192 of 2019

Ashok Muthana

..Appellant/Petitioner/Petitioner
in both appeals

Vs.

Regional Passport Officer Chennai,
Govt. Of India,
Ministry of External Affairs,
Regional Passport Office,
Rayala Towers - II & III,
New No. 158, Anna Salai,
Chennai - 600 002.

..Respondent/Respondent/Respondent
in both appeals

Prayer: Writ Appeal No 994 of 2019 is filed under Clause 15 of the Letter Patent as against the order dated 07.01.2019 passed in W.M.P. No. 30822 of 2018 in W.P. No. 3699 of 2017 and Writ Appeal No. 3192 of 2019 is as against the order dated 13.06.2017 in W.P. No. 3699 of 2017.

W.A. No. 994 & 3192/2019:

W.M.P. 30822/2018:

Petition praying that in the Circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to modify the order dated 13.6.2017 passed in WP No.3699 of 2017 by removing the condition requiring the petitioner to surrender the petitioner Passport bearing No.R2006370 before the XI Metropolitan Magistrate Saidapet Chennai and seeking permission to travel abroad from the Criminal Courts where the Criminal cases are pending against the petitioner and consequently direct the Learned Chief Metropolitan Magistrate Egmore Chennai to release and return the petitioner passport bearing R2006370 to the petitioner custody.

W.P.3699/2017:

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the Respondent

herein to renew/ reissue the Passport No.W-3451425 for a period of 10 years pursuant to the petitioners application bearing No.16-1009674521 dated 19.11.2016 pending in Respondents File No.MA 1079776896316 dated 22.11.2016.

For Appellant :: Mr.C. Manishankar,
Senior Counsel for
Ms.L. Maithili

For Respondent :: Mr.Venkatasamy Babu

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN,J.)

Writ Appeal No. 994 of 2019 has been preferred against the order passed by the learned Single Judge in W.M.P. No. 30822 of 2018 in W.P. No. 3699 of 2017 dated 07.01.2019 by which the appellant's request to modify the earlier order dated 13.06.2017 requiring the appellant to seek permission to travel abroad from the Criminal Courts where the criminal cases are pending and for a direction to the Chief Metropolitan Magistrate, Egmore, Chennai to release and return the appellant's passport has been rejected while Writ Appeal No. 3192 of 2019 has been filed challenging the order dated 13.06.2017 in W.P. No. 3699 of 2017.

2. The appellant is facing criminal proceedings before various Courts including offences under Section 138 of Negotiable Instruments Act. One such case is pending before the Chief Metropolitan Magistrate, Egmore, Chennai, in Crime No. 52 of 2001. Because of the pendency of the cases, his passport was not renewed which compelled the appellant to approach this Court by filing W.P. No. 3699 of 2017 to renew/reissue appellant's passport bearing No.W-3451425 for a period of 10 years.

3. The said writ petition was allowed by order dated 13.06.2017 directing the respondent to renew the appellant's passport for a period of 10 years. On such renewal, the appellant was directed to surrender the said passport before the XI Metropolitan Magistrate, Saidapet, Chennai, (which on change of jurisdiction, has been assigned to Chief Metropolitan Magistrate, Egmore, Chennai) and in the event of the appellant travelling abroad, he was directed to take out appropriate applications before the Criminal Courts where the criminal cases are pending against him for permission to travel abroad. The said condition was sought to be modified by filing W.M.P. No. 30822 of 2018, which was dismissed by the impugned order, leading to the filing of the instant appeal.

4. Mr.C. Manishankar, learned Senior Counsel for the appellant would submit that the appellant has been travelling to various countries de hors the pendency of criminal proceedings. The appellant is a reputed businessman and he has got his roots in India. There is no occasion for him to flee the country. In the past, he has travelled abroad 125 times and returned to India. The learned Senior Counsel relied upon the earlier orders passed by this Court in Crl.M.P. No. 11297 of 2004 in Crl.M.P. No. 3521 of 2002 dated 20.12.2004, W.P. No. 24158 of 2006 dated 12.09.2006 and Crl.R.C. No. 287 of 2007 dated 26.02.2007 and would contend that there is no necessity to seek permission from the Court concerned. What is required to be done is only to inform the Court concerned giving the travel details. Therefore, the learned Senior counsel seeks permission to the appellant to travel abroad after informing the learned Magistrate and giving the travel details.

5. However, Mr.Venkatasamy Babu, learned counsel for the respondent would submit that as per the notification of Government of India dated 25.08.1993, every citizen, who has got a criminal case against him, shall get permission from the Court concerned to travel abroad. In view of the said notification, Court's permission is necessary.

6. In normal circumstances, the contention of the learned counsel for the respondent would hold good as this country is facing lot of problems not only from external factors but also from forces, which are acting within the country. However, the fact remains that the appellant has travelled abroad for about 125 times and on all those occasions, he has returned back to India promptly and this is also admitted by the learned counsel for the respondent. When that is the case, there should not be any problem for the appellant to inform the Court concerned, give the travel details and thereafter leave the country. Besides, the appellant is a businessman and there is no chance for him to flee the country as his family is also rooted in Chennai and the conduct of the appellant also shows that he has returned to India on all 125 occasions that he has travelled abroad in the past. Further, in respect of the criminal case against the appellant in Crime No. 52 of 2001, charge sheet has been filed and framing of charges and other proceedings are yet to commence.

7. Taking into consideration all the above factors, this Court permits the appellant to inform the Chief Metropolitan Magistrate, Egmore, Chennai giving the travel details and thereafter leave the country. It is made clear that this order is passed taking into account the conduct of the appellant and his prompt return to his home country on all 125 overseas trips undertaken by him in the past and this order should not be quoted as a precedent in any other case.

8. The writ appeals are disposed of with the above direction. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Regional Passport Officer Chennai,
Govt. Of India,
Ministry of External Affairs,
Regional Passport Office,
Rayala Towers - II & III,
New No. 158, Anna Salai,
Chennai - 600 002.

Copy to
The Chief Metropolitan Magistrate
Egmore, Chennai.

+1 CC to M/s.L. Maithili Associates sr 79547
+1 CC to Mr. Venkatasamy Babu, Advocate sr 79427.

W.A. Nos. 994 of 2019
& 3192 of 2019

VBA(CO)
SP(26/09/2019)