

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM

THE HON'BLE MR.JUSTICE A.D. JAGADISH CHANDIRA

Cr1.O.P.No.10275 of 2019

V.Vijaya Raghavan

... Petitioner

Vs

The State Rep. by
Inspector of Police
CBI, ACB, Chennai
(RC No.28(A) 2010)

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C to direct the Additional Session Judge, Puducherry at Karaikal on the file of Spl.C.C.No.1 of 2010 to return the original passport of the petitioner bearing No.E1098596 seized by the respondent vide receipt memo dated 23.07.2010 in case No.RC MA1-2010-A0028.

For Petitioner : Mr.S.Ashok Kumar

For Respondent : Mr.K.Srinivasan

Special Public Prosecutor for CBI

O R D E R

The Criminal Original Petition has been filed seeking to direct the Additional Session Judge, Puducherry at Karaikal, to return the original passport of the petitioner bearing No.E1098596, seized by the respondent vide receipt memo dated 23.07.2010 in case No.RC MA1-2010-A0028 and produced before the trial Court in connection with the case in C.C.No.1 of 2010.

2.The learned counsel for the petitioner would submit that the petitioner was arrayed as a sole accused in C.C.No.1 of 2010, which was tried before the Additional Session Judge, Puducherry at Karaikal. The trial Judge by order dated 06.03.2012, convicted the petitioner for the offences under Sections 7, 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

3.Against the Judgment of conviction and sentence, the

petitioner had preferred CrI.A.No.185 of 2012 and this Court by order dated 18.01.2018, allowed the appeal and acquitted the petitioner.

4.The learned counsel for the petitioner would submit that during the investigation, respondent police had seized the original passport issued to the petitioner and produced it before the trial Court. He would further submit that the passport has not been marked as an exhibit in the case. He would submit that earlier, the petitioner had approached the trial Court to return the original passport and the trial Court by order dated 30.10.2015 in CrI.MP.No.44 of 2015, dismissed the petition, stating that the criminal appeal is pending before this Hon'ble Court. Now, since the Criminal Appeal has been disposed of by this Court, and the petitioner having been acquitted, the present petition has been filed, seeking to return the original passport of the petitioner. He would further submit that his son and daughter-in-law are now residing and working in USA and his daughter-in-law is in the advanced stage of pregnancy and she urgently needs assistance of the petitioner and his wife to be with her. Though the passport, which is kept in the custody of the trial Court has expired, it is very much required by the petitioner for applying for a new passport, since as per the rules, petitioner has to apply for fresh passport along with old passport. He would submit that no prejudice will be caused to the respondent by returning the passport to the petitioner, since it is not marked in the case during trial and the Criminal Appeal has also been ended in favour of the petitioner, resulting in acquittal and thereby would pray for a suitable direction to the trial Court to return the passport.

5.The learned Special Public Prosecutor for CBI cases would submit that the petitioner was convicted by the trial Court and the Criminal Appeal filed by the petitioner has been allowed by this Court on 18.01.2018 and the petitioner has been acquitted. He would submit that the passport has not been marked as an exhibit, before the trial Court.

6.Heard both sides and perused the materials available on record.

7.The petitioner has been acquitted by this Court in CrI.A.No.185 of 2012 dated 18.01.2018 and that this Court is of the opinion, that there is no valid reason for the trial Court to hold the passport of the petitioner. Right to travel abroad is a constitutional right. As stated by the petitioner, though the passport has expired it is required for the purpose of applying fresh passport.

8.In view of the above, the trial Court is directed to return the passport of the petitioner bearing No.E1098596 seized in C.C.No.1 of 2010. With the above direction, the Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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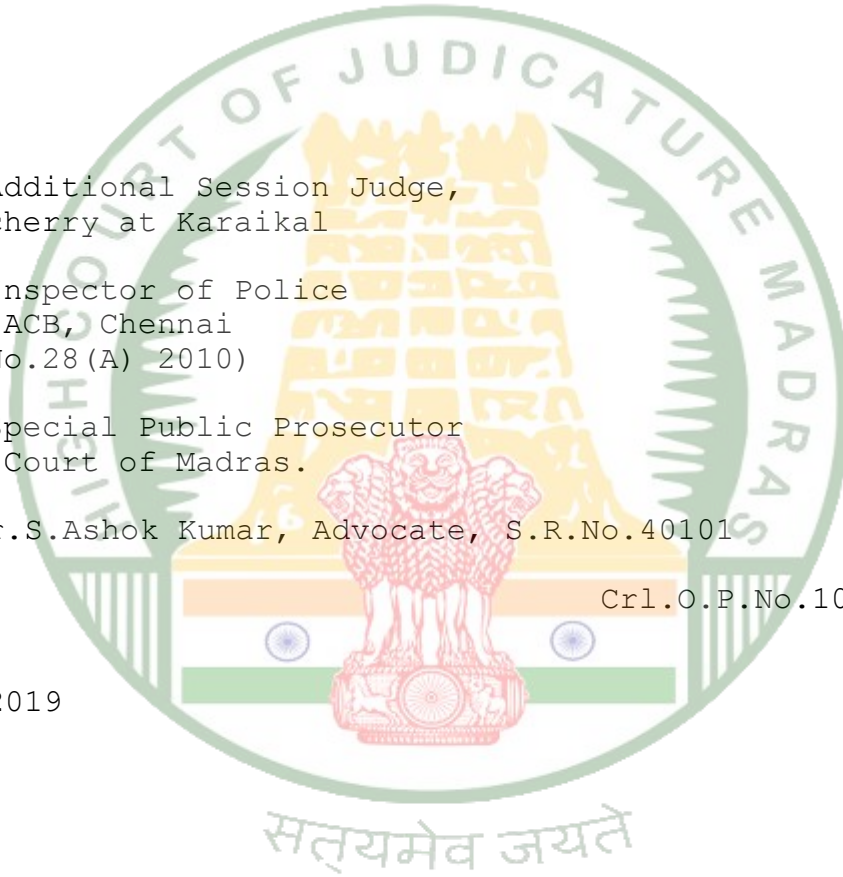
To

1. The Additional Session Judge,
Puducherry at Karaikal
2. The Inspector of Police
CBI, ACB, Chennai
(RC No.28(A) 2010)
3. The Special Public Prosecutor
High Court of Madras.

+1cc to Mr.S.Ashok Kumar, Advocate, S.R.No.40101

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RK(CO)
CS/27/04/2019



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