

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.19308 of 2019

Z.K.Eipe

...Petitioner

-Vs-

1.State, rep. by Inspector of Police,
District Crime Branch,
Coimbatore. 641 018.

2.The Regional Passport Officer,
Ministry of External Affairs,
Government of India,
Videsh Bhavan, Bandra KUrla Complex,
Plot No.C-45, G Block, Bandra (East),
Mumbai-400 051.

... Respondents

(Suo motu impleaded as a party respondent in
CrI.O.P.No.19308 of 2019 dated 22.07.2019)

Prayer: Criminal Original petition filed under Section 482 of
Code of Criminal Procedure, to call for the records relating to
the order dated 12.06.2019 made in C.M.P.No.880 of 2019 in
C.C.No.2 of 2016 on the file of District Munsif Cum Judicial
Magistrate, Valparai, and set aside the same.

For Petitioner : Mr.R.Prabhakaran

For Respondent : Mr.C.Raghavan
Government Advocate

ORDER

This petition has been filed challenging the order passed
by the Court below rejecting the application filed by the
petitioner seeking for issuance of additional booklet for the
passport.

2. The petitioner holds a passport which is valid from
15.01.2014 to 14.01.2024. The Criminal case is pending against
the petitioner in Crime No.2 of 2014 and the final report in

C.C.No.2 of 2016, became a subject matter of challenge before this Court in Crl.O.P.No.1615 of 2017 and this Court has entertained the petition and dispensed with the personal appearance of the petitioner. In the mean time, the petitioner who regularly travels abroad on account of his business, required additional booklet for his passport. Therefore, he filed a petition before the Court below for a direction to the concerned authority to issue additional booklet for his passport. The Court below has dismissed the said application and aggrieved by the same, the present petition has been filed before this Court.

3.The Regional Passport Officer, Ministry of External Affairs, Government of India, Videsh Bhavan, Banddra Kurla Complex, Plot No.C-45, G Block, Bandra (East) Mumbai-400 051, is suo motu impleaded as a party respondent in this petition.

4.Heard, the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondent police.

5.As rightly argued by the learned counsel for the petitioner, the issue involved in this case is squarely covered by the earlier judgment of this Court made in Crl.O.P.No.28974 of 2017 dated 10.04.2018. The relevant portion of the judgment is extracted here under:

7.The legal issue governing the subject has already been discussed in detail by a judgment of this Court in N.Chandrababu Vs.The Sub Inspector of Police, Palakkarai Police Station, Trichy [2017 (3) CTC 493], wherein, this Court has discussed the provisions of section 6(2) of the passports Act and the notification dated 25.08.1993 issued by the Central Government on the subject. Suffice it to extract paragraph 5 of the said judgment.

5.From a reading of the aforesaid Notification, in the opinion of this Court, the expression 'concerned Court' will mean the Court before whom the person is facing the prosecution. In this case, had there not been a quash petition pending, the 'Concerned Court' would be the learned judicial Magistrate No.V, Trichy before whom the petitioner is facing trial in C.C.No.21 of 2015. However, this Court, in exercise of its power under Section 482 of Cr.P.C., has admitted Cr.O.P.(MD).No.3533 of 2017 and has granted stay of all further proceedings in C.C.No.21 of 2015 on the file of the judicial Magistrate No.V, Trichy. Under such circumstances, the expression 'concerned Court' in the context of

the present case will mean the High Court and not the Judicial Magistrate No.V, Trichy."

In the present case, since the quash application is pending in the High Court, the expression "concerned Court" found in the notification dated 25.08.1993 would mean only the High Court.

8.Now coming to the facts of the case, it is seen that the allegation against the petitioner in the charge sheet is that he had committed breach of the contract. Since the allegation was prima facie civil in nature, this Court had thought it fit to entertain the quash application in Crl.O.P.No.29825 of 2017 and has dispensed with the personal appearance of A1 before the trial Court. During the pendency of the prosecution, the petitioner had gone abroad several times and returned. The petitioner is a permanent citizen of India and has subsisting business interest in the country. The petitioner is only seeking additional pages for his passport.

6.It is clear from the above judgment that the case of the petitioner is also in similar lines and the Court below went wrong in rejecting the application filed by the petitioner.

7.The order passed by the Court below in C.M.P.No.880 of 2019 dated 12.06.2019 is hereby set aside and there shall be a direction to the Regional Passport Officer, to issue additional pages for the existing passport of the petitioner. Accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif Cum Judicial Magistrate,
Valparai.

2.The Inspector of Police,
District Crime Branch,
Coimbatore. 641 018.

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4. The Public Prosecutor, High Court, Madras.

+lcc to Mr.R.Prabhakaran, Advocate, S.R.No. 62513

Crl.O.P.No.19308 of 2019

SJ(CO)
GN(31/07/2019)



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