

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.191 of 2019

ORDER :

Heard both sides.

2. The revision is maintained impugning the dismissal order, dated 26.11.2018 in CrI.A.No.880 of 2018 on the file of the Metropolitan Sessions Judge, Hyderabad, which was filed against the dismissal order, dated 27.03.2018 in Cr.M.P.No.33 of 2018 in C.C.Nos.1, 2 and 3 of 2010 on the file of the learned XXI Additional Chief Metropolitan Magistrate-cum-Special Sessions Judge, Hyderabad.

3. Cr.M.P.No.33 of 2018 was filed in fact under Section 451 Cr.P.C. instead of filing under Section 6(2)(f) of the Indian Passports Act, 1967. As per the said provision where any person accused in any crime or case at pre-cognizance or post cognizance right from F.I.R., is shall not leave the country without permission of the Court by getting VISA and including for transit permission, it is pursuant to G.O.Rt.No.726 of 1993 instead of approaching the passport authorities.

4. The averments in the petition are that impugning the trial Court's conviction judgment in three calendar cases, criminal appeals filed pending, wherein suspension of sentence already granted to the petiotiner/A.1. It is the further submission that another Bench of this Court in CrI.P.No.5122 of 2016, dated 14.09.2016, the brother of the petitioner/A.1 granted return of the passport that was also of him in deposit with Court and leave about he is similarly situated to return the same that was ended in dismissal by the impugned order since

opposed by the prosecution with counter mentioned in the revision grounds specifically since now permitted that the return of passport is confined only for renewal and going to redeposit.

5. Having regard to the above and also from the expression of the Apex Court in **Bani Singh v. State of U.P.**¹, the presence of the appellant for every adjournment in the appeal is not required and even he could not return for any reason immediately and taking passport if at all leaving the country, the appeal can be disposed of even not represented by Advocate only on merits instead of waiting. Thereby what was contended before the lower Court in the counter by the CBI of it is only to put spokes to the disposal of the appeal cannot be countenanced in view of the legal position from the Constitution Bench expression supra. Leave it as it is as it is confined only for renewal and to redeposit back, the same can be considered. Accordingly permitted to take back the passport and after renewal redeposit the same. It is made clear that the after return of the passport with renewal, if any, he cannot obtain any transit permission without specific permission of the Court.

6. With the above observations, the revision is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

Dr. B. SIVA SANKARA RAO, J

3rd April 2019

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¹ AIR 1996 SC 2439