

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION NO.4111 OF 2019

ORDER:

The petitioner filed this petition under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the order dated 02.04.2019 passed in CrI.MP.No.884 of 2019 in C.C.No.374 of 2016 on the file of the XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad.

The petitioner filed CrI.MP.No.884 of 2019 before the Court below seeking return of passport. He previously filed CrI.MP.No.298 of 2015 seeking same prayer and it was allowed on 26.02.2015. Later the petitioner deposited his passport before the Court below. The petitioner again filed CrI.MP.No.1414 of 2018 for the same purpose, which was dismissed on 12.06.2018. Aggrieved by the same, the petitioner preferred CrI.RP.No.193 of 2018 before the Metropolitan Sessions Judge, Hyderabad, which was allowed on 30.07.2018 on some terms and conditions imposed by the Court below in CrI.MP.No.298 of 2015. Again the petitioner filed CrI.MP.No.884 of 2019 before the Court below for the same purpose. But the Court below dismissed the said petition by order dated 02.04.2019. The operative portion of the order dated 02.04.2019 reads as under:-

“However, as seen from the record, this Court has categorically dismissed the CrI.MP.No.1414/2018 dt. 12.06.2018 on contest and the permission for return of passport for a period of one year to go abroad was not granted by this Court. But as per the orders in CrI. Revision Petition No.193/2018 dt. 30.07.2018, the permission was granted by the Hon’ble Appellate Court, only for a period of six months. Then as per law and in the circumstances, how this petition is maintainable before this

Court, since already the matter was decided vide CrI.MP.No.1414/2018 dt. 12.06.2018 by this Court. Therefore, in the interest of the justice and in order to avoid multiplicity of the decisions already been decided by this Court in CrI.MP.No.1414/2018 dt. 12.06.2018 and as condition with regard to duration of period of permission fixed by Hon'ble Appellate Court had already lapsed, hence, this petition is clearly devoid of merits and liable to be dismissed. Thus, the point is answered accordingly."

It is seen from the order of the Court below that the permission granted in CrI.RP.No.193 of 2018 dated 30.07.2018 was only for a period of six months and as the said period lapsed, permission could not be given again in CrI.MP.No.884 of 2019. However, the Court below, after hearing the petitioner and the prosecution, has come to the conclusion that Revisional Court has released the passport to the petitioner only for a period of six months and it is a condition precedent and the petitioner is not entitled to get the passport released in his favour and accordingly, dismissed the petition on merits. Aggrieved by the said order, the present petition is filed.

Learned counsel for the petitioner submitted that if the petitioner was not permitted to go abroad, he would suffer irreparable loss. Moreover, the petitioner is not the main accused in C.C.No.374 of 2016 and only the brother of accused No.1 and no prejudice would be caused if he is permitted to go abroad. Hence, prayed to release the petitioner's passport and permit him to go United States of America.

Under the facts and circumstances of the case and as no prejudice would be caused if the petitioner's passport is released, the Criminal Petition is disposed of directing the Court below to

release the passport of the petitioner on the same terms and conditions imposed in Crl.MP.No.298 of 2015 dated 26.02.2015 and the petitioner is permitted to go abroad for a period of six months from the date of receipt of a copy of this order. Miscellaneous applications, if any, pending shall stand closed.

(G. SRI DEVI, J)

18th July 2019
RRB

