



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Thirty First day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) No.158 of 2020
IN CRL OP(MD) No.12470 of 2017

ROBERT GLADSON

... PETITIONER/ PETITIONER

Vs

1 STATE REP.BY
THE INSPECTOR OF POLICE
KARUNGAL POLICE STATION,
KANYAKUMARI DISTRICT.

2 JEGAN

... RESPONDENT/ RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to permit the petitioner to go abroad for a limited period in the month of February 2020.

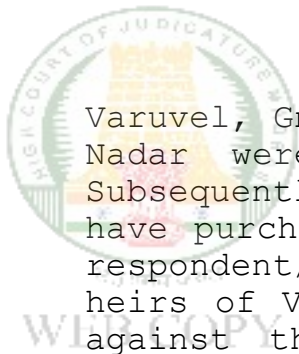
Prayer in CRL OP(MD). 12470/ 2017 :

To call for the records in connection with charge sheet in C.C.No.245/2017 before the Principal District Munsif Cum Judicial Magistrate, Eraniel, Kanyakumari district, quash the same.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.RUSSEL RAJ, Advocate for the petitioner and of Mr.K.K.RAMAKRISHNAN, Additional Public Prosecutor for R1 and Mr.M.R.SREENIVASAN, Advocate for R2, the court made the following order:-

The petitioner in this petition, who is arrayed as Accused No.2 in C.C.No.245 of 2017, on the file of the learned Principal District Munsif-cum-Judicial Magistrate, Eraniel, Kanniyakumari District, has filed the above Criminal Original Petition along with four other accused to quash the proceedings pending against them.

2. On the complaint of the second respondent/defacto complainant, the respondent police filed a final report against this petitioner and seven others alleging that they have created a forged document with the help of one Mariammal. The case of the complainant is that one Sabarimuthu Nadar had four sons, namely, Meiyal,



Varuvel, Gnanaprakasam and Marianesan. The properties of Sabarimuthu Nadar were shared among his sons equally as 1½ acres each. Subsequently one Meiyal died intestate and the petitioners herein have purchased the property from one Mariammal, W/o.Meiyal. The 2nd respondent/defacto complainant, Jegan and others, who are the legal heirs of Varuvel-the second son of Sabarimuthu Nadar, filed a suit against the said Mariammal and others that as per the Indian Succession Act, they are having 50% of share in the properties of Meiyal, as he was not having any issues. The suit is still pending. Pending suit, they also filed a criminal case against the petitioners, who are the purchasers of the property in dispute and the respondent police also filed a final report against the petitioners. As against the final report, the above Criminal Original Petition has been filed by the petitioners. Pending the Criminal Original Petition, the petitioner herein/A2 in Crl.O.P. (MD).No.12470/2017 filed this criminal miscellaneous petition, seeking permission of this Court to go abroad for a limited period in the month of February, 2020.

4. But, however, passport has been denied to the petitioner by referring the above said criminal case pending against him and therefore, he filed this application for a direction to the passport authority. He also relied upon the order passed by this Court in **Kusbhoo Sundar v. The Regional Passport Officer(Chennai)**, wherein it has been held that pending criminal case is not a bar for the passport authority to re-issue or renew the passport. In the said judgment this Court in para No.13 has held as follows:

"13. Having regard to the above, this Court is of the view that the order of return passed by the respondent, refusing to re-issue the passport to the petitioner on the ground that criminal cases are pending against her, cannot be legally sustained. The respondent is therefore directed to process the application of the petitioner and to re-issue or renew the passport in her favour if it is otherwise in order. However, it is made clear that before departing India for the first time after getting the passport, the petitioner shall get necessary permission from the Madurai Bench of this Court where the Quash Petitions filed by her are pending by indicating the date of departure from India, date of return, contact address, place(s) of visit etc., and thereafter by intimating the concerned Court of her itinerary before leaving India."

5. Considering the nature of offence involved and the pendency of the above Criminal Original Petition, this Court, while entertaining the criminal original petition, has granted an order of interim stay in favour of the petitioner. Hence, the passport authority is directed to consider the application for issuance of passport, if any, filed by the petitioner and pass suitable orders



6. Accordingly, this Criminal Miscellaneous Petition is disposed of.

sd/-
31/01/2020

/ TRUE COPY /

WEB COPY

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE PRINCIPAL DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,
ERANIEL, KANNIYAKUMARI DISTRICT.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3 THE INSPECTOR OF POLICE
KARUNGAL POLICE STATION, KANYAKUMARI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.RUSSEL RAJ, Advocate (SR-2044[I] dated 31/01/2020)

ORDER
IN
CRL MP(MD) No.158 of 2020
IN
CRL OP(MD) No.12470 of 2017
Date :31/01/2020

MS/VR/SAR-1/05.02.2020/3P.6C