

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.12.2020

PRONOUNCED ON : 07 .01.2021

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.23433 of 2015 & M.P. No.1 of 2015

R. Elangovan Petitioner/Accused

vs.

1 State of Tamil Nadu
represented by the Inspector of Police
Vettaikaraniruppu Police Station
Nagapattinam District
(Cr. No.92 of 2014) ..1st Respondent/complainant

2 Rajamohan 2nd Respondents/
defacto Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
seeking to call for the records pertaining to C.C. No.76 of 2015
on the file of the District Munsif-cum-Judicial Magistrate,
Vedaranyam, Nagapattinam District and quash the same.

For petitioner Mr. S. Giritharan

For R1 Mrs. P. Kritika Kamal
Govt.Advocate (Crl. Side)

For R2 No appearance

O R D E R

Though there is no scientific or empirical basis for saying
that there will be seven like persons, the facts of this case
would make one believe in this myth.

2 For the sake of convenience, the dramatis personae in this case will be referred to by their names.

3 The facts in brief are as under:

3.1 One Rajamohan, S/o Subbian, residing in Soorya Vinayagar Street, Vettaikaraniruppu Village, Keezhvelur Taluk, Nagapattinam District, submitted a passport application on 11.11.2012 in the office of the Regional Passport Officer, Trichy. His passport application was rejected on the ground that a passport bearing no.F 2761396 dated 09.03.2005 has already been issued by the Trichy Passport Office in the name of one Rajamohan. Subsequently, the passport authorities sent a copy of the passport application in respect of Passport No.F 2761396 along with a covering letter dated 05.06.2013 to the Superintendent of Police, Nagapattinam, to verify the genuineness of the applicant of Passport No.F 2761396.

3.2 Enquiries conducted by the police revealed that one Rajamohan, S/o Subbian, residing in Soorya Vinayagar Street, Vettaikaraniruppu Village, Keezhvelur Taluk, Nagapattinam District, had applied for passport on 03.01.2005 with the photograph of a person who was not Rajamohan (genuine). Therefore, the police conducted further enquiry and found that the photograph in the passport application dated 31.01.2005 is that of one Elangovan, S/o Ramachandran residing at South Jallikulam, Vettaikaraniruppu Village, Nagapattinam District. The police informed this by a special report dated 14.11.2005 to the passport authorities. Further enquiries by police revealed that Elangovan, S/o Ramachandran was not in the village at all and had gone on employment to Qatar. The police apprised these details to Rajamohan (genuine). It may be necessary to state here that Rajamohan (genuine) and Elangovan are from the same village, viz., Vettaikaraniruppu, but, were living in different streets.

3.3 On coming to know that Elangovan had come to the village, Rajamohan (genuine) lodged a complaint to the police, based on which, the police registered a case in Cr. No.92 of 2014 under Section 12(1)(b) of the Passports Act, 1967 and Sections 468 and 420 IPC against Elangovan.

3.4 Apprehending arrest, Elangovan filed CrI.O.P. No.27782 of 2014 in this Court under Section 438 Cr.P.C. seeking anticipatory bail. He contended that he had already obtained a passport bearing no.F1184417 valid from 26.10.2004 to 25.10.2014 and on the expiry of that passport, he went to the Indian Embassy at Qatar, surrendered that passport and obtained a fresh passport bearing no.L 1447106 valid from 13.03.2014 to

12.03.2015. Thus, the contention of Elangovan was that he had not masqueraded as Rajamohan and obtained the passport bearing no.F 2761396, because, he had no reason to impersonate anyone, inasmuch as he had already obtained a valid passport and was working in Qatar.

3.5 This Court, while granting the relief of anticipatory bail vide order dated 20.10.2014, directed him to surrender the two passports to the police for proper investigation and accordingly, he also surrendered the passports.

3.6 After completing the investigation, the police filed a final report in C.C. No.76 of 2015 in the District Munsif-cum-Judicial Magistrate, Vedaranyam, for the offences under Section 12(1)(b) of the Passports Act and Sections 468 and 420 IPC against Elangovan, for quashing which, Elangovan is before this Court.

4 Notice was served on Rajamohan (genuine) and none entered appearance for him and hence, his name was printed in the cause list.

5 Heard Mr. S. Giritharan, learned counsel for Elangovan and Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the first respondent State.

6 Incontrovertibly, one Rajamohan (fake) has applied for passport in the year 2005 with the photograph of Elangovan and has obtained passport bearing no.F 2761396 dated 09.03.2005. This passport has not been seized by the police. The fact that the said passport was issued in 2005 came to light only when Rajamohan (genuine) made an application in the year 2012. Unimpeachable records show that Elangovan was already issued a passport bearing no.F 1184417 dated 26.10.2004 in his name and Rajamohan (fake) had applied for passport only subsequently, i.e., on 31.01.2005.

7 Yet another feature in this case is that the passport authorities have, in their letter dated 11.05.2015, addressed to the police, have stated that the original passport application in respect of Rajamohan (fake) relating to passport no.F 2761396 has been destroyed due to efflux of time. Thus, Rajamohan (genuine), passport authorities and the police are trying to focus Elangovan as the person who had applied in the name of Rajamohan (fake) based on the scanned copy of the passport application.

8 Mrs. Kritika Kamal placed reliance on the police statement of one Vijayalakshmi, Deputy Passport Officer, who has stated that on 09.03.2005, she handed over the passport bearing no. 2761396 to Rajamohan who came to the office requesting

issuance of passport to him as he was required to get a visa for getting employment abroad. Vijayalakshmi has not stated that it was Elangovan who had come in the year 2005 and collected the passport on 09.03.2005. Of course, it will be nigh difficult for an official dealing with hundreds of cases to say with certainty in 2014, about the particulars of a person with whom he had interacted in the year 2005 in the course of his regular official business. One can easily identify one's relatives and friends and not strangers with whom one would have had some interaction in the course of one's official duties a decade ago.

9 Mrs. Kritika Kamal placed further reliance on the police statement of one Bhargavi, mother of the complainant, who has stated that in the year 2004, when Tsunami struck Nagapattinam, Elangovan collected the ration card details of the residents of the village, including that of Rajamohan (genuine) for the purpose of getting them aid from the Government, with which, Elangovan must have obtained the fake passport. This statement of Bhargavi does not inspire the confidence of this Court for the following reasons.

- i. Had this been true, Rajamohan (genuine) would have stated this at the earliest point of time in his complaint to the police;
- ii. Assuming that Elangovan had collected the ration card particulars of the villagers for getting them Tsunami aid from the Government, there was no necessity for him to apply for a passport in the name of Rajamohan in the year 2005 when he already had a passport that was issued to him in the year 2004;
- iii. There are materials to show that Elangovan has been using his genuine passport for going abroad for employment purpose; and
- iv. there is no shred of material to show that Elangovan was involved in any offence giving room to a suspicion that he was a dubious person. Investigation by the police shows that after obtaining passport no.F 1184417 in the year 2004, Elangovan had gone for employment to Qatar and when his passport expired there, he obtained a fresh passport bearing no.L 1447106 for a limited period, i.e., one year, from 13.03.2014 to 12.03.2015 which is normally issued by the Indian Embassy in a foreign country.

10 In such view of the matter, this Court is of the view that this is a fit case for quashing the prosecution.

In the result, the prosecution in C.C. No.76 of 2015 is quashed and as a sequel, this criminal original petition is allowed. Connected Crl.M.P. is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cad

To:

- 1 The Inspector of Police
Vettaikaraniruppu Police Station
Nagapattinam District
- 2 The District Munsif-cum-Judicial Magistrate
Vedaranyam
Nagapattinam District
3. Do Thro The Chief Judicial Magistrate
Nagapattinam
- 4 The Public Prosecutor
Madras High Court
Chennai - 600 104

Crl.O.P. No.23433 of 2015

sra(co)

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