



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2021

CORAM:

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THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P.No. 7119 of 2021

Shanmuganathan

...Petitioner

Vs

The State,
Represented by The Inspector of Police,
R-9, Valasaravakkam Police Station (Crime)
Chennai, (Crime No.1030/2012)

...Respondent

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records in C.C.No.105 of 2019 on the file of the
Judicial Magistrate No.I, Poonamallee and quash the same.

For Petitioner : Mr.B.Mohanraj
For Respondent : Mr.A. Damodaran
Counsel for Govt. of Tamil Nadu
(Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the proceeding in C.C.No.105 of 2020 on the file of the Judicial Magistrate No.I, Poonamallee. The petitioner, who is A3, is facing trial along with five others, for the alleged offences under Sections 120-B, 419, 420, 465, 466, 468 and 471 of IPC and Section 12(1A) (a) of the Passports Act, 1967.

2. The gist of the case is that, prior to 12.06.2012, A1 to A3 in this case, had forged and prepared Indian Passport using the photographs of A4 to A6 (Srilankans), thereby, benefited in getting the Passport and they acted in conspiracy with each other and A1 to A3 and A6 had used the photograph of A5. The accused had prepared Passport bearing No.4952282, which had been issued in favour of A4 for using the photograph of A5 and another Passport had been forged and prepared bearing No.H7910056 using the photograph of A5. Similarly, A6 had forged and prepared using the photograph of A5 in Passport bearing No.E5295669 has been prepared. Thus, three Passports have been prepared and A4, A5 and A6 who are Srilankans and the Indian Passports have been prepared and by using the same, they attempted to live as Indian. After completion of investigation, the charge sheet has been filed and list of witnesses, namely LW1 to LW11 were examined and documents were produced.



3. The learned Counsel appearing for the petitioner contended that the petitioner is arrayed as A3. He is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the investigation is over and charge sheet already been filed against him. Hence, he prayed for quashing the C.C.No.105 of 2019 pending on the file of the Judicial Magistrate No.I, Poonamallee.

4. Mr.A. Damodaran, learned Counsel for Govt. of Tamil Nadu (Criminal Side) appearing for the respondent, strongly opposed to quash the proceeding in C.C.No.105 of 2019, as the petitioner attempted to forge the Indian Passport and using the same, he had attempted to send Srilankans out of India. A4 to A6 are the Srilankans and they got forged Indian Passports. The petitioner acted as broker middle man and prepared passport probably to leave as Indians, A1 to A3 prepared the Indian Passports, and all the particulars provided by the petitioner. Thus, the petitioner had conspiracy with all accused and had committed the offences. This is clearly seen from the facts and circumstances of the case. Therefore, the petitioner is charged for conspiracy and there are materials collected against the petitioner. Hence, he strongly opposed for quashing the proceeding in C.C.No.105 of 2019.

5. From the entire confession statements of the A1 and A2, it is seen that there is nothing against the petitioner, the petitioner is roped in an surmises, not corroborated with any statement and materials. It is seen that the petitioner's sister is in Norway and his brother-in-law is living in London, who informed to the petitioner, that A2-Tharmaseelan to be handed over Rs.75,000/- through A5-Prabakaran. A5-Prabakaran made all arrangements for the accused to leave India and other than that, there is nothing against the petitioner.

6. Considering the contention of the petitioner and from the confession statement of A1 and A2, it is clear that no recovery made on the confession of the petitioner, and the other confession of co-accused are independent without any corroboration. From the confession of A3, it is seen that there is nothing against the petitioner. The petitioner and A4 to A6 are all Srilankans, hence it was suspected that the petitioner acted as conduit. From the confession of the co-accused, it is seen that no seizure or recovery had been made from the petitioner, the witnesses viz., LW1 to LW10 have stated that the Passports are forged which had been seized from the other accused. LW7 and LW8 Passport Officials have not whispered about the petitioner. As there is no materials found against the petitioner, this Court is inclined to quash the proceedings against the petitioner alone.



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7. Accordingly, the Criminal Original Petition is allowed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

msm

To

- 1.The Judicial Magistrate No.I,
Poonamallee, Chennai.
- 2.The Inspector of Police,
R-9, Valasaravakkam Police Station (Crime)
Chennai
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Mohan Raj, Advocate, Sr.No.31669

CrI.O.P.No. 7119 of 2021

PCH(CO)
KKV/30/07/2021