

Ghugre

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL REVISION APPLICATION NO. 217 OF 2015
WITH
CRIMINAL INTERIM APPLICATION NO.937 OF 2022**

Rajesh Champaklal Mehta ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondent

Mr. Marmik Shah for the applicant.

Mr. A.R. Patil APP for the State.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 9, 2022

P.C.:

1. The applicant is original accused who has been convicted for offense under Section 304-A of the Indian Penal Code, 1860.
2. On 13th June, 2006, F.I.R. bearing No.164 of 2006 was registered against the applicant for offense punishable under Section 304-A of the Indian Penal Code. The Trial Court convicted the applicant for offense punishable under Section 304-A of the Indian Penal Code, 1860 on 20th July, 2013. The learned Metropolitan Magistrates 49th Court has directed the applicant to undergo sentence of (1) one year rigorous imprisonment and to pay compensation of Rs.20,000/- (Twenty Thousand Only) . The appeal filed against the said Judgment had been dismissed by the learned Sessions Judge. The applicant, therefore, filed present Criminal Revision Application which is pending before this Court.

3. This court by order dated 5th May, 2015 suspended the sentence of the applicant on furnishing cash deposit of Rs.20,000/- (Twenty Thousand Only). The passport earlier issued to the applicant expired on 6th May, 2018. Therefore applicant applied for renewal of passport in the year 2021.

4. The applicant has stated that during the period of vaildity earlier passport, he had traveled to Singapore & Malaysia in the year 2010 and to South Africa in the year 2012 without violating any conditions imposed upon him by the trial Court.

5. Applicant's daughter is residing at United States of America and the applicant intends to visit his daughter. According to the applicant, concerned Police Station, i.e., Pant Nagar Police Station did not issue police clearance for renewal of passport and, therefore, the applicant has filed present application seeking direction to the concerned authorities for issuance of clearance for renewal of passport.

6. This point is no longer *res integra* in view of the Judgment of Apex Court in Criminal Appeal No.1343 of 2017 in the case of **Vangala Kasturi Rangacharyulu Vs. CBI** dated 27th September 2021. The apex Court, after considering the provisions of the Passports Act, 1967, has observed that the refusal of passport can only be in case where the applicant is convicted during the period of five (5) years immediately preceding the date of application for offence involving moral turpitude and sentence to undergo imprisonment for not less than two (2) years. In the facts of the present case, considering the nature of offence for which the

applicant has been convicted and considering the fact that during the subsistence of all earlier passports the applicant has not violated the conditions imposed on him and in the light of the Judgment of Apex Court in the case of **Satwant Singh Sawhney v. D. Ramarathnam, Assistant Passport Officer**, reported in 1967 AIR 1936 as the right to travel abroad is a facet of Article 21 of the Constitution of India.

7. In my opinion, the applicant has made out a case for grant of relief as prayed for. Hence, following order:

a) The respondents are directed to process the application of the applicant for renewal of passport and the respondent No.1 shall not refuse police clearance on the ground of pendency of present Revision Application.

b) The respondent No.2 shall take decision on the grant of renewal of passport in accordance with law.

8. The Interim Application stands disposed of in above terms.
No Costs.

9. List the Criminal Revision Application on **23rd November, 2022.**

(AMIT BORKAR, J.)