



*Crl.MP.Nos.12936, 12941, 13335 & 13380 of 2022
in Crl.A.No.928, 930, 966 & 969 of 2022*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2022

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.MP.Nos.12936, 12941, 13335 & 13380 of 2022

in

Crl.A.No.928, 930, 966 & 969 of 2022

Crl.MP.No.12936 of 2022

K.Maha Rajan, M/70
S/o.Kuppusamy,
No.2/29, South Street,
Allankottai and Post,
Thiruvarur District.

... Petitioner

.Vs.

The State Rep. by
The Inspector of Police,
Nagapattinam Q Branch, C.I.D.,
Nagapattinam,
(Crime. No.1/2015)

... Respondent

PRAYER : This Petition filed under Section 389 (1) of Cr.P.C., to suspend the sentence imposed on the Petitioner/Appellant in Special C.C.No.:02 of 2015 by the learned Special Court/Chief Judicial Magistrate, Thiruvarur, Thiruvarur District by its judgment dated 29.07.2022 in Special C.C.No.02 of 2015 on the file of the Special Court/Chief Judicial Magistrate

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Thiruvarur, Thiruvarur District, enlarge the Petitioner/Appellant on bail
pending C.A.No. of 2022 on the file of this Court.

For Petitioner : Mr.M.Palanivel

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

Crl.MP.No.12941 of 2022

S.Ashokan, Male age 60 years ... Petitioner
S/o.Subramanian,
AP1362, 31st Street,
6th Sector, K.K.Nagar,
Chennai 600 078.

.Vs.

The Inspector of Police,
Nagapattinam Q Branch, C.I.D.,
Nagapattinam, ... Respondent

PRAYER : This Petition filed under Section 389 (1) of Cr.P.C., to suspend
the sentence dated 29.07.2022 awarded against the Petitioner in Special
C.C.No.2 of 2015 on the file of the Special Judge/Chief Judicial Magistrate,
Thiruvarur and enlarge the Petitioner on bail pending disposal of the above
appeal.

For Petitioner : Mr.R.Karunakaran



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For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

Crl.MP.No.13335 of 2022

S.Prabakaran,
Aged about 35/2022
S/o.Sakthivel,
Koopatchikottai,
Now Thottipalayam,
Thiruppur.

... Petitioner

.Vs.

The State,
Rep. by the Inspector of Police,
Nagapattinam Q Branch, C.I.D.,
Nagapattinam,
(Crime. No.1/2015)

... Respondent

PRAYER : This Petition filed under Section 389 (1) of Cr.P.C., to suspend the sentence imposed in Special S.C.No.2 of 2015 CNR No.TVTV 02-000291-2015 dated 29.07.2022 by the Special Court-cum-Chief Judicial Magistrate Court, Thiruvarur, pending disposal of the instant Criminal Appeal.

For Petitioner : Mr.G.Mutharasu

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

Crl.MP.No.13380 of 2022

1.Ravi @ Ravichandren, M/53 (A7)

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S/o.Nagarajan,
D.No.30, Arasangula theru,
Thiruvarur Town,
Thiruvarur.

2.Asokkumar, M/42 (A8)
S/o.Ramadoss,
No.40, Kamalakkanni Nagar,
Pullivalam (Post)
Thiruvarur

... Petitioner

.Vs.

The State Rep. by
The Inspector of Police,
Nagapattinam Q Branch, C.I.D.,
Nagapattinam,
(Crime. No.1/2015)

... Respondent

PRAYER : This Petition filed under Section 389 (1) of Cr.P.C., to suspend the sentence passed against Petitioners/ Appellants in Special C.C.No.2 of 2015 dated 29.07.2022 by the learned Special Court/Chief Judicial Magistrate, Tiruvarur and enlarge Petitioners on bail pending disposal of the accompanying criminal appeal.

For Petitioner : Mr.P.Nagaraju

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)



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COMMON ORDER

These Petitions have been filed to suspend the sentence imposed on the Petitioners herein, in Special C.C.No.:02 of 2015 by the learned Special Judge/Chief Judicial Magistrate, Thiruvarur District by judgment dated 29.07.2022 and enlarge the Petitioners on bail pending disposal of the above Appeals.

2.The Petitioners herein, are A3, A6, A7, A8 & A11 in Special C.C.No.:02 of 2015. By the order of the learned Special Judge/Chief Judicial Magistrate, Thiruvarur, they were convicted and sentenced on 29.07.2022.

3.The convicted A3 has filed Crl.A.No.966 of 2022 and he was convicted for the offences under Section 120(B) of IPC and under Section 12(2) of the Passports Act.

4.The convicted A6 has preferred Crl.A.No.930 of 2022 against the conviction and sentence under Section 120(B) of IPC and under Section



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12(2) of the Passports Act.

5.The convicted A7 & A8 are preferred Crl.A.No.969 of 2022, against the conviction and sentence for the offences under Sections 120 (B), 468, 471 & 13(1)(d), r/w 13(2) of the Prevention of Corruption Act and under Section 12(2) of the Passports Act and were acquitted for the offence under Section 465 IPC.

6.The convicted A11 preferred Crl.A.No.928 of 2022 against the conviction and sentence for the offence under Sections 120 (B), 468, 471 of IPC, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act and under Section 12(2) of the Passports Act.

7.The final report was filed against A1 to A11. A2 died, pending proceedings and in respect of A1, A4, A5 & A10, as they were absconded, their cases have been split up. The trial has been concluded, apart from the above Accused. Even A9 was convicted, so far, no Appeal has been preferred by him.



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8.Learned counsel for A3 would contend that against him, there is no positive evidence indicating the alleged involvement under Section 120(B) of IPC and under Section 12(2) of the Passports Act.

9.Learned counsel for A6 would contend that based upon the alleged confession statement of A1, which was said to have been given in another case, the trial Court convicted A6 and hence he would contend that the conviction based on statement of the co-accused in a different case cannot be a basis for conviction and draw my attention to the evidence of PW44 (IO), PW25 and would also contend that alleged recovery in the Petrol Bunk near Tiruvarur Police Station is doubtful, arrest and remand also doubtful and draw my attention to the allegation that three Srilankan nationals A4, A5 & A10 have sought for the Indian passport and A6 said to have been conspired with them and have obtained for the fictitious person, so that, enable them to leave the Country without valid document.

10.Learned counsel for A6 would further contend that A6 is a



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Cinema Director, taking TV Serials, alleged to have asked A1 to make an arrangement to get fake passport for A4, A5 & A10, who are Srilankan nationals. To probablise the suggestive case, they also examined DW1, DW2 to show that the accused have seen A6 in “Q” branch police station and would also contend that based upon the evidence of PW44, whether the confession statement is up to 1.30 or 2.30 and seizure mahazar thereon and further there is a discrepancy in intimating the arrest and seizure with the evidence of PW25. Though the prosecution has come forward with a specific case that one of the passport was handed over to fictitious person Murali, who was also not examined and therefore, he would contend the conviction under Section 12(2) of the Passports Act is not made out.

11.As per prosecution theory, A6, the cinema director has instructed to create false and fabricated documents, so as to enable to get Indian passport for Srilankan people. A4, A5, A10 & A1 were in association with A2 & A3 created bogus documents and submitted it to the passport office situated in the Collectorate of Tiruvarur and when the said papers have been sent for police verification, A7, A8 & A9 said to have



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created fabricated documents, as if, verification has been done by the local police and produced bogus verification certificate, make it believe that the document annexed by them (A7 & A8) are genuine and based upon the report of A7 & A8, the passport of one of the person by name Kajan was sent, which A11/Post man, without following the procedure for delivery of the passport, had handed over to the fictitious person and hence the case.

12.He would further contend that the alleged role of A7 and A8 is based upon the confession statement and there is no document to show that these A7 & A8 created documents and there is no allegation that they are forged documents.

13.Learned counsel for A11 would contend that the post man has delivered as per the instruction. However, he is an alian to the alleged conspiracy of Section 120(B) and delivered it to Murali and hence, sought for suspension of the sentence.

14.Per contra, learned Government Advocate in the counter



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affidavit would contend that the case of the prosecution/complainant is that all the accused are known to each other and they were engaged in getting Indian passports to Srilankan Nationals (A4, A5, A10) by producing forged documents. A1 to A3 are close associates and A1/Indirajith is the resident of Kooppachikottai village, who was doing the illegal business of getting passports for Srilankan nationals, by producing forged documents at Passport Application Collection Centre in the District Collector Office, Thiruvarur. A2 Ayya @ Sundarrajan, resident of Padappaikadu village, who was the close associate of A1/Indirajith, assisting him for his illegal business of getting fake passports. A3/Prabhakaran is the resident of Thiruppur and brother-in-law of A1/Indirajith and he was also assisting the illegal business of A1/Indirajith. A4, A5, A10 are the Srilankan Nationals to whom A1, A2, A3 obtained fake passports by producing forged documents. A6/Ashokan is maternal uncle of A1/Indirajith and resident of Chennai.

15.He would further contend that A7/Ravichandran worked as D1 assistant at District Police office (District Crime Records Bureau), Thiruvarur and attended the duty of police verification of the applications

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for issuing Indian passports received from Regional Passport office, Tiruchirappalli, who assisted illegally to accused 1 to 3, without entering applications in the register maintained for that purpose and not handing over applications to concerned Police Station and he directly handed over the applications to the A8/Data entry operator Ashokkumar at District Police office (District Crime Records Bureau), Thiruvarur and in turn, A8/Ashokkumar, receiving applications from A7/Ravichandran handed over to A9/Loganathan, who was working as Special Sub Inspector of Police, Paravakkottai Police Station to affix signatures of the concerned Inspector and police personnel, forging their signatures in the applications and again, he handed over to A8/Ashokkumar. After receiving applications from A9/Loganathan, A8/Ashokkumar would further hand over to A7/Ravichandran.

16.He would further contend that A6/Ashokan is the maternal uncle of A1/Indirajith and resident of Chennai. On his direction only, A1/Indirajith was doing illegal business of getting fake passports.



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17.From the records it is seen that the prosecution has examined examined 45 witnesses and marked 90 documents as exhibits P1 to P90 and MO1 to MO6 were marked. In defence side, three witnesses were examined and three documents were marked. The complainant proved the guilty of the petitioners beyond any reasonable doubts and the trial court convicted petitioners under section 120 (b) IPC and under section 12(2) of the Passports Act.

18.As regards the finding against A6, The petitioner also confessed his involvement in the offences and the fake passport for A10 Kajan in the fictitious name of Murali was recovered during his confession in the presence of the independent witnesses PW25/Narayanasamy, then V.A.O of Nilagiri, Therkku Thottam village, Thanjavur Taluk and the then village assistant Veeraragavan. A10 Kajan also gave statement under section 164 of Cr.P.C. before the Judicial Magistrate of Nannilam, in which he admitted that he preferred passport application in the fictitious name of Murali at Passport application collection centre at Thiruvarur. PW27/Baskaran has given in his evidence as the said petitioner Ashokan had been conducting a

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guest house in Chennai, in which Sri Lankans also used to stay and hence, I am not inclined to suspend the sentence in respect of A6/Petitioner in Crl.MP.No.12941 of 2022 in Crl.A.No.930 of 2022.

19.A3 was convicted as stated supra. Argument of the learned counsel for A3 and the learned Government Advocate thereof has been considered.

20.The trial Court has considered the documents produced before the Court and taken into consideration the oral evidence of PW18, PW19, PW20, PW21 & PW39 coupled with the evidence of PW31, PW34, PW35 & PW36 to get fake passport for the Srilankan nationals/A4 & A10. After going through the records, I find that the order of the trial Court appears to be just and fair, in rendering the finding that on circumstantial evidence it has been proved.

21.Learned counsel for A3 & A6 would contend that they are not committed any offences under the Passports Act and therefore, the offences under Section 12 (2) of the Passports Act is not made out. On perusal of the said provisions, I find that, it is the penal Section for the act committed under Section 12(1) and 12(1)(a). In 12(1)(b), it is mentioned that, whoever knowingly furnishes any false information or suppresses any material



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information with a view to obtaining a passport or travel documents under this Act or without lawful authority alters or attempts to alter or caused to alter the entries made in a passport or travel document shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both. I find that the present case attracts 12(1-A)(a), on the facts and circumstance of the case and hence, the said contention raised by the learned counsel for the respective Petitioners/Appellants has no ground to stand. This finding is rendered for the consideration of these Petitions alone.

22.All the accused have been acquitted under Section 465 of IPC. In respect of A11 for the alleged offences under Section 468 and other offences, he was convicted relied upon the decision of the Hon'ble Supreme Court in the case of *Monica Bedi Vs. State of Andhra Pradesh* reported in *2011 (1) SCC 284*, in connection with the similar set of facts and similar set of evidence. On perusal of the evidence of PW3/Manivel and Ex.P.10, Ex.P30, Ex.P.35, the trial Court has rendered a finding that A11 has committed offences.



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23.It remains to be stated that fake passport has been seized Ex.P.36(Asokan). Ex.P.49 is a delivery receipt for the fictitious person Murali done by PW11 has also been marked and Ex.P.76 is a bogus voter Id submitted for obtaining the passport (Eesan). MO6 is the passport of Kajan is also been marked during the trial. The confession statement of Asokan, Loganathan, Asokkumar, Ravichandran have been marked as Ex.P.38, Ex.P.44, Ex.P.45 & Ex.P.46 respectively. The Hero honda and the Pulsar vehicles, seized by the police, under form 95 was produced and marked as MO4 and MO5, and hence, I find the finding rendered by the trial Court on the alleged overt act against the Petitioners, based upon the perusal of documentary evidence and taking note of the fact that the entire episode is with regard to obtaining of the bogus Indian passport to the Srilankans by using fake documents and as such by aiding of other accused, all these accused have committed offence against national security and hence I am not inclined to suspend the sentences for the time being.

24.With these observations, all the Criminal Miscellaneous



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Petitions are dismissed, with liberty to move before the Court on change of circumstances, if any and if they be so advised.

26.08.2022

sai

To

1.The learned Special Judge/Chief Judicial Magistrate,
Thiruvavarur.

2.The Public Prosecutor,
High Court,
Chennai 104.



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RMT.TEEKAA RAMAN, J.,

sai

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Dated 26.08.2022