



Crl.OP.No.23704 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.23704 of 2022
and Crl.M.P.No.15109 of 2022

1. Mohamed Sikap
2. Fathima Farzana Markar

... Petitioners

Vs.

State by
The Inspector of Police,
Vedharanyam Police Station,
Vedharanyam,
Nagapattinam District.
(Crime No.1210 of 2020)

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., prayed to set aside the order dated 25.04.2022 made in Crl.M.P.No.416 of 2022 in S.T.C.No.507 of 2020 on the file of District Munsif-cum-Judicial Magistrate, Vedharanyam by allowing the petition.

For Petitioners
For Respondent

: Mr.B.Kumarasamy
: Mr.E.Rajthilak
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed to set aside the order dated 25.04.2022 in Crl.M.P.No.416 of 2022 in S.T.C.No.507 of 2020 on the file of District Munsif-cum-Judicial Magistrate, Vedharanyam.

2. The learned counsel for the petitioners would submit that the petitioners are arrayed as accused in STC.No.507 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Vedharanyam. The respondent police prosecuted the petitioners for having committed the offence under Section 12(1)(c) of India Passport Act, 1967, however, the prosecution has not obtained valid sanction. He would further submit that after examination of prosecution witnesses, they came to know about non-obtaining of sanction. He would also submit that the prosecution has filed a petition under Section 311 of Cr.P.C in C.M.P.No.416 of 2022 in STC.No.507 of 2020 permitting them to examine one Supriya, Inspector of Police, Vedaranyam Police Station as prosecution side witness and permitting to mark the sanction order as prosecution side evidence and the same was allowed by the



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learned Trial Judge by an order dated 25.04.2022. Aggrieved over the same, the present petition has been filed.

3. The learned Government Advocate (Crl.side) for the respondent would submit that the sanction order has been issued by the competent authority before commencement of trial, since the petitioners are being prosecuted for violating the Section 12(1)(c) of Indian Passport Act. He would further submit that the Inspector of Police, Vedaranyam police station is a necessary witness and through her, the sanction order has to be marked in order to substantiate the prosecution case. The prosecution is entitled to examine the Inspector of Police and to mark the sanction order. Hence, there is no error apparent in allowing the petition and to justify the order passed by the Trial Court.

4. Heard the learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent police and perused the materials available on record.

5. On perusal of the records, it reveals that the petitioners are accused in



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STC. No.507 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Vedharanyam. The respondent police prosecuted the petitioners for having committed the offence under Section 12 (1) (c) of Indian Passport Act, 1967. Admittedly, in this case, prosecution has examined P.W.1 to P.W.5. Thereafter, prosecution had filed a petition in C.M.P. No.416 of 2022 for examining further prosecution witness namely Supriya, the Inspector of Police, Vedharanyam Police Station and also want to mark the sanction order issued by the competent authority as prosecution side evidence. The learned Trial Judge had allowed the petition. Admittedly, the prosecution has not included one Supriya in the list of witnesses as well as not filed the sanction order. In order to substantiate their case, the Inspector of Police, being a necessary witnesses and the sanction order is also necessary to establish the prosecution case. Therefore, it has to be let in evidence. However, there is no reason to interfere with the order passed by the Trial Court. At the same time, through the document, learned Government Advocate (Criminal Side) had filed a sanction order issued by the competent authority in R.C. No. 48/2021/C2 dated 19.08.2021. According to the petitioners/accused, the sanction order has been issued after the case was taken on file and after the examination of prosecution witnesses. Therefore, the benefit of the sanction order as well as examination of



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prosecution witnesses may be produced before the Trial Court. The Trial Court may consider the same on merits in accordance with law.

6. Accordingly, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

13.10.2022

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
nr

To

1. The learned District Munsif-cum-Judicial Magistrate,
Vedharanyam.
2. The Inspector of Police,
Vedharanyam Police Station,
Vedharanyam,
Nagapattinam District.
3. The Public Prosecutor
High Court, Madras.

V.SIVAGNANAM,J.

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