



Crl.O.P No.28399 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.28399 of 2022

V.Sathiamoorthy

... Petitioner

Vs.

The Inspector of Police,
W-23, All Women Police Station,
Royapettah,
Chennai.
(Cr.No.1 of 2014)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in CrI.M.P. No.13044 of 2022 dated 09.11.2022 on the file of the learned XVIII Metropolitan Magistrate, Saidapet and set aside the same, thereby permitting for renewal of the passport of the petitioner bearing No.V2192288 and further to permit the petitioner to travel to US for his employment purposes.

For Petitioner : Mr. R.Ganesh Kumar

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



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ORDER

This petition has been filed challenging the order of the learned XVIII Metropolitan Magistrate, Saidapet passed in Crl.M.P. No.13044 of 2022 dated 09.11.2022.

2. On a complaint given by the petitioner's wife on the allegations that the petitioner and his family members have ill treated her and demanded dowry, a case was registered in Cr. No.1 of 2014 for the offence under Section 498(A), 406 IPC r/w. Section 4 of Dowry Prohibition Act. In the said case the petitioner is the first accused. The petitioner is a permanent resident of United States of America (USA) and is holding a Green Card in USA. At present he is living at Washington DC and is employed at Neustar, Washington DC as Manager. The passport issued to him was about to get expired due to efflux of time and he needed to renew it at the Indian Embassy at Washington DC. During that time he had also participated in the matrimonial cases pending between himself and his wife. As his passport was about to expire by June 2021, he needed to stay back for some more time and apply for renewal. However, the passport authority directed the petitioner to seek permission from the Court. Accordingly, the petitioner



submitted an application before the trial Court vide Cr.M.P. No.5346/2021 seeking leave. The said petition was dismissed. The petitioner had challenged the same by preferring a Criminal Original Petition in Crl.O.P.No.13333/2021 and it was allowed on 01.10.2022 by directing the Regional Passport Authority to renew the passport of the petitioner. However, the period for which the renewal was granted was not mentioned. Hence the passport was renewed only for one year and hence it is going to be expired on 19.10.2022. So the petitioner has come down to India just to file a petition once again to get the leave of the Court. A petition was filed by him in this regard in Crl.M.P. No.13044/2020 for seeking permission to travel abroad and for renewal of passport but the same was denied. Aggrieved over the same, he has filed this present petition.

3. The learned Government Advocate (Crl.side) submitted that since the case against the petitioner is pending and it is of the year 2015, the petitioner's presence in India is necessary and hence he should not be permitted to travel to United States of America.

4. The petitioner is the first accused in C.C. No.2165/2015, which is



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pending before the XVIII Metropolitan Magistrate, Saidapet. Even the petition filed in H.M.O.P. No.2190/2014 (transferred from Sub-Court, Thanjavur to Family Court, Chennai and renumbered as H.M.O.P. No.2190 of 2014) for restitution of conjugal rights was pending between the petitioner and his wife. The petitioner had filed a divorce petition before the Loudoul Country Circuit Court at Verginia, U.S.A. and got a decree in his favour. Since his wife had given the complaint pertaining to C.C. No.2165/2015, the petitioner obtained anticipatory bail by virtue of an order of this Court dated 27.08.2014 in Crl.O.P. No.23330/2014.

5. It is submitted that when the petitioner came down to India on 01.09.2014 at about 11.45 p.m., he was detained by the Immigration Authorities by stating that there was a lookout circular against him. It is to be noted that he had already obtained anticipatory bail. Thereafter he had filed a petition in Crl.O.P. No.27941/2014 for a direction to withdraw the lookout circular. However, the lookout circular was withdrawn by the Deputy Commissioner of Police, Mylapore himself and hence Crl.O.P. No.27971/2014 was closed.



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6. The accused 3 to 11 in C.C. No.2165/2015 have filed a discharge petition in Crl.M.P.No.3657/2015 and the same was dismissed on 19.09.2018. Challenging the same, a Criminal Revision was filed before this Court in Crl.R.C. No.1342/2018 and the same was dismissed on 27.03.2019. Aggrieved over the same, the accused 3 to 11 have challenged the order of dismissal by filing a Special Leave Petition before the Supreme Court in S.L.P. Cr.No.2973 of 2020 and in which an order of stay has been granted. The petitioner has also filed a petition to quash the proceedings in C.C. No.2165 of 2015 before this Court in Crl.O.P. No.22771/2019 and the same is pending. However his personal appearance is dispensed by an order dated 13.09.2019 in Crl.M.P No.11856/2019. Since the stay order granted by the Hon'ble Apex Court is continuing, the Criminal Original Petition filed by the petitioner in Crl.O.P. No.22771/2019 and the proceedings in C.C. No.2165/2015 pending before the learned XVIII Metropolitan Magistrate, Saidapet cannot be proceeded for the present.

7. The petitioner had traveled to India on so many occasions during the pendency of the case for the case proceedings and made his appearance



before the Court. Only in view of his immigration issues, the earlier petition filed by the petitioner in Crl.O.P. No.1333/2021 has been allowed with conditions. Since the stay is continuing and there cannot be any progress in this case for now and the present status is also more or less similar to the status which was existed at the time when the petitioner had filed the previous Criminal Original Petition in Crl.O.P. No.1333/2021, I feel some indulgence can be shown by allowing this petition.

9. It is to be noted that the petitioner has a valid passport at the time when the case proceedings have been initiated. The petitioner is not going to file a fresh passport and his request is just to renew the passport already issued to him and which has been expired due to efflux of time. Unless his Indian passport is extended, he may not be in a position to come back to India and participate in the case proceedings. The petitioner cannot leave his job at the United States of America due to the pendency of case. Since the petitioner has been given with an anticipatory bail and there are no conditions attached to the bail order, his fundamental right to movement cannot be restricted without any valid reasons by denying or causing



obstruction for renewing his passport.

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10. It is true that the petitioner should not delay the proceedings which have been initiated in the year 2015. In similar such circumstances which arose during last year, the petitioner had executed an affidavit and had undertaken that he would not be the reason for any delay for the proceedings and he would appear before the Court whenever his presence is indispensable and absolutely necessary.

11. In view of the above discussions, the petitioner is directed to execute an undertaking affidavit before the Court below. On such undertaking being given, the Regional Passport Authority, Trichy shall consider his request for renewal of the petitioner's passport in No.V2192288 and pass an order and enable him to travel to United States of America for resuming his job. The period for which the passport can be renewed can be at the discretion of the Regional Passport Authority, Trichy in consideration of the conduct of the petitioner.

12. With the above observations, this Criminal Original Petition is disposed.

21.11.2022

Index : Yes/No

Speaking Order : Yes / No

Note of Office: Issue order copy by 22.11.2022



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R.N.MANJULA, J.,

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Copy to:

1. The Inspector of Police,
W-23, All Women Police Station,
Royapettah,
Chennai.
2. The XVIII Metropolitan Magistrate, Saidapet.
3. The Regional Passport Office,
Trichy
4. The Public Prosecutor,
High Court, Madras.

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