



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Cr1.R.C. (MD) .Nos.49 and 51 of 2022

and

Cr1.M.P. (MD) .Nos.939 and 941 of 2022

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Cr1.R.C. (MD) .No.49 of 2022

S.Sundaravel Ramesh

...Petitioner

Vs.

1. The Inspector of Police,
West Police Station,
Thanjavur,
Thanjavur District.
Crime No.40 of 2014.

2. B.Senthil Kumar

...Respondents

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C. praying to call for the records in connection with the order passed by the learned Judicial Magistrate No.1, Pudukottai in Cr.M.P.No.3787 of 2021 in C.C.No.123 of 2019 dated 20.12.2021 and set aside the same and consequently direct the Passport Officer, Regional Passport Office, Tiurchirappalli to return the passport of the petitioner bearing Passport No.Z2366280 and permit the petitioner to travel Singapore.

Cr1.R.C. (MD) .No.51 of 2022

S.Sundaravel Ramesh

...Petitioner

Vs.

1. The Inspector of Police,
Thanjavur Medical College Hospital Police Station,
Thanjavur @ Thanjavur District.
Crime No.55 of 2013.

2. B.Senthil Kumar

...Respondents

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C. praying to call for the records in connection with the order passed by the learned Judicial Magistrate No.1, Pudukottai in Cr.M.P.No.3788 of 2021 in C.C.No.124 of 2021 dated 20.12.2021 and set aside the same and consequently direct the Passport Officer, Regional Passport Office, Tiurchirappalli to return the passport of the petitioner bearing Passport No.Z2366280 and permit the petitioner to travel Singapore.



For Petitioner : Mr.N.Sathish Babu (In both cases)
For R-1 : Mrs.M.Aasha (In both cases)
Government Advocate (Crl. Side)
For R-2 : Mr.S.Srinivasa Raghavan
(In both cases)

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COMMON ORDER

The Criminal Revision Cases have been filed challenging the orders passed by the learned Judicial Magistrate No.1, Pudukottai in Cr.M.P.Nos.3787 and 3788 of 2021, dated 20.12.2021, thereby, dismissing the petitions filed by the petitioner for return of passport.

2. The case of the prosecution is that the second respondent was the brother-in-law of the petitioner herein. The petitioner and his wife were residing at Singapore. Due to disputes between the petitioner and his wife, his wife returned to India. While being so, the second respondent lodged a complaint on 27.01.2013 against the petitioner and others alleging that they attacked him and his friend with weapons, damaged his friend's vehicle and threatened him with dire consequences. On the said complaint, the case has been registered in Crime No.55 of 2013 for the alleged offences under Section 294(b), 341, 324 and 506(ii) IPC read with Section 3(1) of Prevention of Damage to Public Property Act, 1984.

3. After completion of investigation, the respondent police filed final report and the same has been taken cognizance in C.C.No.123 of 2019. Due to non-appearance of the petitioner herein, the trial got delayed and in fact, on several grounds, the warrant was issued and the look out circulars were issued against the petitioner. One of the look out circulars was challenged by the petitioner herein to withdraw the same and this Court by an order dated 28.10.2020 directed the police official to withdraw the look out circular on the following conditions:

"(i)The petitioner shall arrive in India on or before 12.02.2021 and surrender his passport to the immigration authority.

(ii)Thereafter, he shall surrender before the learned Judicial Magistrate No.I, Pudukottai on or before 13.02.2020 and execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the above said Magistrate.

(iii)The sureties shall affix their photographs and left Thumb impression in the



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surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(iv) The petitioner shall file an affidavit of undertaking that he will not leave India till the disposal of the criminal cases and he will co-operate for the progress of trial and he will also undertake that the prosecution witnesses will be cross examined on the same day of their examination in chief. In the event of non-cooperation, the trial court shall take steps in accordance with law laid down by the Honourable Supreme Court of India in the case of **State of Uttar Pradesh Vs Shambunath Singh reported in (2001) 4 SCC 667.**"

4. The petitioner filed a petition for modification in respect of the aforesaid conditions (ii) and (iv) imposed by this Court and by an order dated 20.03.2020, this Court allowed the modification petition and relaxed the condition. Aggrieved by the same, the second respondent filed an appeal before the Hon'ble Supreme Court of India in S.L.P. Criminal No.3411 of 2020. In the said appeal, The Hon'ble Supreme Court of India directed the Trial Court to complete the trial within a period of four (4) months from the date of communication of the order and further, directed the petitioner not to leave the country until the conclusion of trial and to appear before the Trial Court as and when called upon to do so. The Honourable Supreme Court of India also held that, in case, the Trial Court has not concluded the trial within the stipulated time, the petitioner would be at liberty to approach the Trial Court for re-consideration of his prayer to leave the country.

5. Since, as directed by the Hon'ble Supreme Court of India, the Trial Court could not able to complete the trial, the petitioner filed a petition for return of his passport to leave the country. As stated supra, because of the petitioner's absence on so many occasions, warrants were issued and look out circulars were issued against the petitioner. Only because of his absence, the Trial Court could not able to conclude the trial within the time stipulated by the Hon'ble Supreme Court of India. In fact, the Hon'ble Supreme Court of India held that, if the Trial Court failed to conclude the trial within the time stipulated by the Hon'ble Supreme Court of India, the petitioner would be at liberty to approach the Trial Court for re-consideration. Now, the Trial Court again considered the request made by the petitioner and formed that the request made by the petitioner cannot be granted. Further, if the petitioner is permitted to leave India, the entire trial will be stalled and as such, the Court below rightly dismissed the petitions for return of his passport. Therefore, this Court finds no

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infirmity or illegality in the orders passed by the Trial Court.

6. Accordingly, the Criminal Revision Cases are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

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Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Lm

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,
West Police Station,
Thanjavur,
Thanjavur District.
2. The Inspector of Police,
Thanjavur Medical College Hospital Police Station,
Thanjavur @ Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court.
Madurai.

Copy to

The Section Officer, Criminal Section, (2C) (Soft Copy)
Madurai Bench of Madras High Court, Madurai

+2 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-6562[F], 6561 dated 16/02/2022)

Cr1.R.C. (MD) .Nos.49 and 51 of 2022
16.02.2022

VR (CO)
KB (10.03.2022) 4P 8C