



Crl.R.C.No.607 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.04.2023

PRONOUNCED ON : 25.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.607 of 2023

Sulaiman @ M.D.Salyman

... Petitioner

Vs.

State rep. by its
The Inspector of Police,
CCB-11, Egmore,
Chennai.

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C. to set aside the order passed by the learned Judicial Magistrate No.I, Alandur in Crl.M.P.No.1098 of 2023, dated 14.03.2023 and allow the Criminal Revision Petition seeking permission to travel abroad under work Visa at Qatar.

For petitioner : Mr. R.Anburaj

For Respondent : Mr. R.Vinothraja
Gov. Advocate (crl.side)



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ORDER

Challenging the order passed by the Judicial Magistrate No.I, Alandur in Crl.M.P.No.1098 of 2023 dated 14.03.2023, the present Criminal Revision has been filed.

2. The fact of the case is that the petitioner is an accused in C.C.No.237 of 2023 on the file of the Judicial Magistrate No.I, Alandur. The respondent police prosecuted the petitioner/accused for having committed the offence punishable under Section 12(1)(A)(a) of the Passports Act 1967 along with Section 420, 468 and 471 of IPC in CCB Cr.No.56 of 2022. The petitioner is a citizen of Bangladesh and his place of birth is Bathullah, Kudupur, Narayanganj District, Bangladesh. He is an illegal immigrant and he illegally entered India in the year 2004, by crossing the land border near Petrapole-North 24 Parghanas District, Southern West Bengal. After which, he travelled to Mumbai and got married Shri Shabana Begum and he got his name enrolled in the Family Card of his wife's Aunt,



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namely, Sarbunisa, as her son. Using the Family Card as residence proof, he filed an affidavit at the RPO, Chennai stating that he was born in Ambur on 02.04.1976 and fraudulently obtained Indian Passport No.F3834060, issued by the Regional Passport Office, Chennai by mentioning his place of birth as Ambur on 23.06.2005 and the date of expiry was on 22.06.2015. Using the same, he travelled to Qatar in the year 2007 and worked as an oil field supervisor and he worked there for a period of 15 years. In the mean time, he got a renewal passport M6181245 at Doha on 05.07.2015 and the same was seized from the petitioner/accused, which was later handed over to the petitioner vide order dated 19.12.2023 of the Judicial Magistrate-I, Alandur in C.M.P.No.5646 of 2022. Thereafter, the petitioner filed a petition in CMP NO.1098 of 2023 seeking permission to travel to abroad for work visa, which was dismissed by the Trial Court on the ground that the petitioner is not an Indian citizen and if he is permitted to travel Abroad, there is no possibility for him to appear before the Court and co-operate for the Trial, which is under challenge before this Court.



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3. The learned counsel for the petitioner submitted that the petitioner married a Indian Girl on 15.04.2004 and lived in India for more than 7 years as required under Section 5(c) of the Citizenship Act 1955 to become an Indian Citizen. He has been living continuously at Ambur for more than 20 years and continuously working at Qatar from the year 2004 and the petitioner had applied for Indian Citizenship, which is under progress. Meanwhile, the respondent police had registered the above said case and filed final report, which was taken on file in C.C.No.237 of 2023 by the Judicial Magistrate No.I, Alandur. He further submitted that the petitioner is ready to file affidavit to attend and co-operate with the trial and he may be permitted to travel Qatar on work permit. The Trial Court failed to consider the fact that the petitioner had continuously travelled to Qatar on work permit and he travelled to abroad only for work purpose. Therefore, he may be permitted to travel to Qatar on work permit and pleaded to allow the revision.



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4. The learned counsel, relied upon the decision of the Hon'ble Supreme Court in **2020 SCC 77 (Parvez Noordin Lokhandwalla /vs/ State of Maharashtra and anr.)**

5. The learned Government Advocate (crl.side) objected to grant permission to the petitioner/accused to travel to Qatar and submitted that the petitioner is not an Indian citizen as on date and he is a citizen of Bangladesh. He illegally entered India in the year 2004 and he is an illegal immigrant. The petitioner married Indian Girl and enrolled his name in the family card of his wife's Aunt Sarbunisha as her son and by using the family card for residential proof, he got the Indian Passport by furnishing false information. Therefore, the police registered the case and prosecuted against him. If he is permitted to travel to Qatar, he may not return to India and co-operate with the case before the Trial Court, which is now pending for appearance of the accused and for further proceedings and pleaded to dismiss the revision petition as it has no merit.



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6. I have considered the matter in the light of the submissions made by the counsel for the parties and perused the materials available on record.

7. The judgment relied on by the learned counsel for the petitioner is concerned with different factual situation. In that case, the petitioner was an Indian citizen and holds an Indian Passport. Due to family dispute, a criminal case has been registered. Further, in that case, the petitioner sought leave of the Court since he was a green card holder in US and it was mandatory for him to return to US within a stipulated period of his departure from that country. Failing which, the condition for re-validation of green card would not be fulfilled. Therefore, in that case, the Hon'ble Supreme Court had permitted him to travel to US. But, in this case, the petitioner is not an Indian citizen, he being a Bangladesh citizen is prosecuted for furnishing false information for obtaining Indian Passport and hence, he is prosecuted. The Trial is now pending. Therefore, the decisions relied on by the revision petitioners will not be helpful to support the case on hand.



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8. On a perusal of the records, it is noticed that the petitioner is not the Indian Citizen as on date. He is the Citizen of Bangladesh. The petitioner himself in the grounds of revision in paragraph 6 had stated that the petitioner had applied for Indian citizenship and the same is under progress. Not being an Indian Citizen, he got Indian Passport for travelling to Qatar. On verification, it is found by the police that he obtained Indian Passport by marrying an Indian Girl and falsely included his name in the Familycard of Sarbunisa as her son. Therefore, he is now prosecuted for furnishing false information. Under such circumstances, he not being an Indian citizen and prosecuted for obtaining passport by furnishing false information, it is not proper to permit him to travel to Qatar till the disposal of the criminal case pending against him. Therefore, I find no error in the impugned order passed by the learned Magistrate and no merit in this revision and hence, it is liable to be dismissed.

9. Accordingly, this Criminal Revision Case is dismissed.

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To

1. The Judicial Magistrate No.I,
Alandur.
2. The Inspector of Police,
CCB-11, Egmore,
Chennai.



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V.SIVAGNANAM, J.,

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Pre-delivery order in
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