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Crl.M.P.No.5170 of 2024 in Crl.O.P.No.19964 of 2022

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T.V.THAMILSELVI, J.

This Criminal Miscellaneous Petition has been filed by the petitioner/accused seeking to return his passport bearing No.N6223960, which has been surrendered before the learned Judicial Magistrate, Vedaranyam in Crl.M.P.No.9 of 2024 as per the order passed by this Court in Crl.O.P.No.19964 of 2023, dated 04.09.2023 and to enable him to continue his business.

2. The learned counsel for the petitioner submitted that it is a case of matrimonial dispute and at the instance of the wife of the petitioner, a case was registered against the petitioner and his family members and the same was registered in Crime No.16 of 2023. Thereafter, the petitioner along with his family members had filed a petition before this Court in Crl.O.P.No.19964 of 2023 seeking anticipatory bail and when the said petition came before this Court on 04.09.2023, this Court had referred the matter to mediation and also directed the petitioner to surrender his original passport before the concerned Magistrate. Subsequently, the petitioner surrendered his passport before the Judicial Magistrate Court, Vedaranyam on 04.01.2024 in Crl.M.P.No.9 of



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2024 and complied with the order order this Court dated 04.09.2023.

Thereafter, the petitioner and other accused were granted anticipatory bail by this Court by order dated 09.01.2024 in Crl.O.P.No.19964 of 2023 on condition directing the petitioner to pay maintenance to the wife and child along with arrears. The petitioner also complied with the said condition.

3. Thereafter, the petitioner filed the present petition in Crl.M.P.No.5170 of 2024 seeking return of passport. When this petition came up before this Court on 24.04.2024, this Court had directed the defacto complainant to appear before this Court on 30.04.2024. On 30.04.2024, the defacto complainant appeared before this Court and since she raised objection to go along with the petitioner to abroad, the petitioner was directed to hand over his house key to the defacto complainant and also directed to pay interim maintenance of 25,000/- per month to the defacto complainant and child, till the completion of proceedings. This Court also directed the parties to go for mediation and the matter was ordered to be listed on 14.06.2024 along with mediation report. The learned counsel submitted that the petitioner has complied with all the conditions from the beginning to till date without default. As per the directions of this Court, the petitioner offered the house key



to the defacto complainant but she did not accept the same. The mediation was referred back due to non co-operation of the defacto complainant. When the matter came up before this Court on 15.07.2024, this Court had directed both the parties to appear before this Court on 18.07.2024 and the petitioner was directed to produce the key to the defacto complainant on the said date.

4. The learned counsel submitted that the petitioner is working as an agent for his uncle in Ghana country in West Africa and he has to frequently travel to foreign country for business purpose. Due to this family problem, the petitioner sustained heavy lose. Only if the petitioner is able o earn income, he would be in a position to pay the maintenance as the petitioner has no other income in India. Hence, he prays to return the passport to the petitioner to enable him to continue his business in abroad with any condition that me be imposed by this Court.

5. Today (18.07.2024), when the matter is taken up for hearing both the parties along with the child appeared before this Court and when the petitioner handed over the key to the defacto complainant, she refused to receive the same.



6. Further, the defacto complainant raised objection for returning passport to the petitioner stating that she is having a special child who is aged about 1 1/2 years and if the passport is returned, there is every possibility of the petitioner to escape to abroad leaving her and the special child and he would escape from the responsibilities of taking care of her and the child. Hence, she raised strong objection for allowing this petition.

7. Hear both sides and perused the materials available on record.

8. Considering the facts and circumstances of the case and the submissions made by both sides, this Court is of the view that if the petitioner's passport is returned, there is every possibility of the petitioner evading his responsibility of taking care of his wife and child. Therefore, this Court is not inclined to allow this petition.

9. Accordingly, this Criminal Miscellaneous Petition stands dismissed.

18.07.2024

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