



Crl.R.C.No.1762 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1762 of 2024

Muneer Ahmed

... Petitioner/Petitioner

Vs.

The State represented by
The Inspector of Police,
W-19, Adayar All Women Police Station,
Chennai.
Crime No.11/2022.

...Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of the BNSS, to call for the records and set aside the order dated 10.09.2024 in Crl.M.P.No.13445 of 2024 passed by the IX Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.A.Nileshram

For Respondent : Mr.V.J.Priyadarsana
Government Advocate (Crl.Side)



ORDER

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The petitioner aggrieved by the dismissal of his petition dated 10.09.2024 in Crl.M.P.No.13445 of 2024 filed for return of passport has preferred the above revision.

2. The case of the prosecution is that the petitioner got married to the *de-facto* complainant in 2015; and that the petitioner had committed cruelty on account of dowry demand and hence, the *de-facto* complainant had lodged a complaint against the petitioner for the offences under Sections 406, 509, 498A, 323 and 506(i) of the IPC and 3 and 4 of the Muslim Women (Protection of Rights on Marriage Act 2019).

3. The learned counsel for the petitioner/accused would submit that when the petitioner approached this Court for bail, this Court had passed an order granting interim bail on 22.01.2024 in *Crl.O.P.No.601 of 2024*, on certain conditions, which included the condition to deposit his original passport before the learned IX Metropolitan Magistrate, Saidapet, Chennai; that however, when the bail application was heard finally, this Court had



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directed the petitioner to deposit a sum of Rs.6,00,000/- (Rupees Six Lakhs only) to the credit of C.C.No.2947 of 2023 on the file of the learned IX Metropolitan, Saidapet, Chennai and also directed the learned Magistrate to hand over the said amount to the *de-facto* complainant; that since this Court had not insisted on deposit of the passport of the petitioner in the final order dated 27.02.2024 in Crl.O.P.No.601 of 2024, he had moved the petition for return of passport and the learned Sessions Judge in Crl.M.P.No.13445 of 2024 on 10.09.2024 however, dismissed the said petition stating that passport cannot be returned due to the order of this Court and if it is returned to the petitioner, he would abscond; and that the said order is erroneous and liable to be set aside.

4. The learned Government Advocate, (Crl.Side) for the respondent/complainant, *per contra*, submitted that the petitioner has complied with the condition to deposit Rs. 6,00,000/- (Rupees Six Lakhs only), and the money was also handed over to the *de-facto* complainant; that since the petitioner is a Non-Resident Indian (NRI), there is a possibility of his fleeing away from justice and going out of the country and therefore the passport need not be returned to the petitioner and hence he prayed for the



dismissal of this petition.

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5. Heard both sides and perused the materials available on record.

6. It is true that this Court while granting Interim Bail to the petitioner, had directed the petitioner to surrender his passport before the trial Court. However, at the time of the final hearing of the bail petition, this Court had directed the petitioner to deposit Rs.6,00,000/- (Rupees Six Lakhs only) and permitted the *de-facto* complainant to withdraw the said amount. On such condition, this Court had granted bail to the petitioner and the said order reads as follows:

19. Accordingly, the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned IX Metropolitan Magistrate, Saidapet, Chennai and on further conditions that :-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Passbook to ensure their identity.

[b] the petitioner shall report before the



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trial Court on every Monday at 10.30 a.m., for a period of four weeks apart from the Court hearing dates.

[c] the petitioner should deposit a sum of Rs.6,00,000/- (Rupees Six Lakhs only) to the credit of C.C.No.2947 of 2023 before the IX Metropolitan Magistrate, Saidapet, Chennai on or before 31.03.2024. On such deposit, the learned Magistrate, may hand over the said amount to the defacto complainant.

[d] It is made very clear that this deposit could not indicate that the petitioner had admitted to any of the allegations raised by the defacto complainant. It only expresses his bonafide. The defacto complainant is also at liberty to seek further damages or compensation or return of jewels and if any monetary claim is granted, this amount of Rs.6,00,000/- is to be adjusted.

[e] the petitioner shall not abscond either during investigation or trial.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]. [h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.



[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

What this Court meant is that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand) and shall abide by further conditions mentioned in clauses (a) to (h) of the said paragraph. However, the learned Magistrate in the order dismissing the petitioner's application for return of passport has interpreted the further conditions as including the deposit of the passport. This is an erroneous interpretation of the order of this Court.

7. Be that as it may. The petitioner is an NRI. The learned counsel for the petitioner would, state that the petitioner's passport would be required for other purposes, namely to obtain a loan and to apply to other jobs in the country and that the petitioner does not intend to flee away from the country.

8. When this Court granted Interim Bail, there was a direction to the petitioner to surrender his passport. However, in the Final Order, no such condition was imposed. The petitioner's request for return of the passport



cannot be said to be unreasonable as the petitioner requires the passport for other purposes, as rightly contended by the learned counsel for the petitioner. At the same time, the return of the passport must not give a license to the petitioner to flee away and abscond. Hence, this Court is inclined to order the return of the passport on conditions to ensure that the petitioner appears before the learned Magistrate for trial and does not flee from justice. Hence, the order passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai, is set aside, and the revision is allowed on the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for the likesum to the satisfaction of the learned IX Metropolitan Magistrate, Saidapet, Chennai;

(ii) The petitioner shall file an affidavit before the learned Magistrate that he would not travel abroad without permission from the learned Magistrate;

(iii) The petitioner shall appear before the learned Magistrate on all hearing dates;

(iv) If the petitioner violates any of the conditions above, it is open to the learned Magistrate to recover the passport from the petitioner; and also to cancel the bail



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granted to the petitioner.

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9. With the above direction, the Criminal Revision is allowed.

11.11.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

- 1.The IX Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Inspector of Police,
W-19, Adayar All Women Police Station,
Chennai..
- 3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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