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Crl.A.No.1346 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1346 of 2024

Kavikumar

... Appellant

Vs.

The Superintendent of Customs,
RSI-AIR, New Custom House,
Meenambakkam,
Chennai.

... Respondent

PRAYER: Criminal Appeal filed under Section 500 of BNSS to set aside the order passed in Crl.M.P.No.9471 of 2024 dated 25.09.2024 in C.C.No.76 of 2021 on the file of the Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and consequently direct to return the passport for renewal of Overseas Citizen of India Card.

For Appellant : Mr.C.S.S.Pillai

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor (NCB)



JUDGMENT

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The appeal challenges the order passed by the learned Special Judge dismissing the appellant's prayer for return of his Malaysian Passport and Overseas Citizen India Card [OCI Card].

2.The appellant faced trial in C.C.No.76 of 2021 on the file of the Special Court for the alleged offence under Sections 8(c) r/w. 29, 8(c) r/w. 22(c), 8(c) r/w. 23(c), 8(c) r/w. 28 and 8(c) r/w. 20(b)(ii)(A) of the NDPS Act, 1985. The appellant was acquitted by the judgment dated 29.07.2024. Thereafter, he filed a petition in Crl.M.P.No.9471 of 2024 seeking for return of passport and OCI Card which were marked as Ex.P14 and Ex.P15 before the Trial Court. The Trial Court dismissed the said petition stating that the respondent had already filed an appeal against acquittal which is pending before this Court in Crl.A.No.1454 of 2024 and therefore, the said documents cannot be returned at this stage.

3.The learned counsel for the appellant would however submit that his passport has expired and therefore, the same has to be returned to enable



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him to renew the passport and that after renewal, he would surrender the passport before the Trial Court.

4.The learned Special Public Prosecutor appearing for the respondent would submit that since it is already marked as documents in the Court and the records have to be submitted to this Court during hearing of the appeal, the said documents may not be returned.

5.Admittedly the passport of the appellant expired on 23.10.2024. If the passport is not renewed, the appellant's stay in India would become illegal and therefore, the request made by the appellant cannot be said to be unjustified. However, if the respondent apprehends that the appellant after taking return of passport would misuse the same, the respondent may depute an Officer to accompany the appellant for the purpose of renewal of passport and to thereafter surrender it before the Court.

6.Hence, the Trial Court can hand over the passport to the Officer deputed by the respondent for the aforesaid purpose. The Officer deputed



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by the respondent and the appellant shall appear before the Trial Court on 10.12.2024 for the purpose of receiving the passport and to comply with the above direction of this Court.

7.As regards the OCI Card, it is not in dispute that the appellant is a Malaysian National. Therefore, this Court is of the view that the OCI Card marked as Ex.P15 can be returned to the appellant and the Trial Court shall take a copy of the said card, certify it and retain it in the place of original OCI Card for the purpose of records.

8.With the above direction, the Criminal Appeal stands allowed.

26.11.2024

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

- 1.The Superintendent of Customs,
RSI-AIR, New Custom House,
Meenambakkam,
Chennai.
- 2.The Special Judge,
I Additional Special Court for Exclusive
Trial of Cases under NDPS Act,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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