



Crl.O.P.(MD) No.22590 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD) No.22590 of 2024

Velmurugan

... Petitioner

Vs.

The State of Tamil Nadu
Rep. through The Inspector of Police,
District Crime Branch,
Sivagangai.
Crime No.18 of 2021

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, 1973 to set aside the docket order dated 10.12.2024 made in Crl.M.P.E-filing No.TNSV020077382024 in C.C.No.744 of 2022 on the file of the learned Judicial Magistrate No.II, Sivagangai and issue direction to the learned Judicial Magistrate No.II, Sivagangai to return the petitioner's passport bearing Passport No.X7681157.

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

WEB COPY This Criminal Original Petition has been filed to set aside the docket order dated 10.12.2024, made in Crl.M.P.E-filing No.TNSV020077382024 in C.C.No.744 of 2022 on the file of the learned Judicial Magistrate No.II, Sivagangai, and to issue a direction to the learned Judicial Magistrate No.II, Sivagangai, to return the petitioner's passport bearing Passport No.X7681157.

2. The petitioner/Accused No.5 in C.C.No.744 of 2022, facing prosecution for the offences punishable under Sections 406, 468, 471, 420, 120B r/w Section 34 of the IPC, was detained by the Immigration Department at Madurai Airport on 13.11.2024, when he arrived in India. The petitioner was thereafter taken to the respondent police, and on the same day, he was released after being served with a summons.

3. On 20.11.2024, the petitioner appeared before the Judicial Magistrate No.II, Sivagangai. At that time, both the petitioner's new passport bearing Passport No.X7681157 and old passport bearing Passport No.L4123311, which had been seized, were produced before the Judicial Magistrate No.II, Sivagangai, in C.C.No.744 of 2022 [Crime No.



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18 of 2021] in Form-95, and the same were received. Since the passport is an important document, it has been kept separately in a wooden box in the court.

4. The petitioner had also filed a quash petition before this Court in Crl.O.P.(MD) No.21347 of 2024, and this Court, by an order dated 05.12.2024, admitted the same and ordered a stay. Accordingly, the petitioner filed a petition for the return of property under Section 451 of the Criminal Procedure Code and Section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023, before the trial court on 03.12.2024. The trial court returned the petition on 10.12.2024, recording that the passports had not been seized as case property. This, according to the petitioner, is not proper.

5. The learned Additional Public Prosecutor appearing for the respondent police has not seriously disputed the petitioner's contention and has also produced Form-95 to confirm that both the new passport bearing Passport No.X7681157 and the old passport bearing Passport No.L4123311 were seized from the petitioner, who is Accused No.5 in C.C.No.744 of 2022 and the Inspector of the District Crime Branch



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produced the same before the Judicial Magistrate Court No.II, Sivagangai, and the learned Magistrate recorded that the passports were to be kept in a wooden box in the court.

6. In view of Form-95 bearing No.06863471 dated 18.11.2024, the trial court's return of the petitioner's petition with such an endorsement is improper. Accordingly, the return of the petitioner's petition is set aside.

7. The petitioner is directed to re-submit the petition for the return of property before the Judicial Magistrate No.II, Sivagangai.

8. The Judicial Magistrate No.II, Sivagangai, is directed to consider the same on merits, without delay, within a period of 30 days from the date of receipt of a copy of this order.

9. With the above observations, this Criminal Original Petition is allowed.

20.12.2024

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



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Note: The Registry is directed to return the original petition which has been filed along with this petition.

To:

- 1.The Judicial Magistrate No.II,
Sivagangai.
- 2.The Inspector of Police,
District Crime Branch,
Sivagangai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Issue order copy on 02.01.2025.



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M.NIRMAL KUMAR, J.

JEN

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20.12.2024