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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3447/2022 & CRL.M.A. 14422/2022**
SHRI HARISH KUMAR NAGORIA

..... Petitioner

Through: Mr.Ashwin Vaish, Adv.

versus

STATE

..... Respondent

Through: Ms.Priyanka Dalal, APP.
SI Savita Maan, PS IGI Airport.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

10.05.2024

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1. This petition has been filed under Section 482/483 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of FIR No.264/2008 registered at Police Station: IGI Airport, Delhi under Sections 420/468/471 of the Indian Penal Code, 1860 (in short, 'IPC') and Section 12 of the Passport Act, 1967 (in short, 'Passport Act'), along with all other proceedings arising therefrom.

2. It is the case of the prosecution that on the intervening night of 19th / 20th July, 2008, one person namely Gurjinder Singh was apprehended at immigration counter at the IGI Airport while seeking clearance for his travel to Romania. On scrutiny of his passport, it was found that the same was restitched at page 9 and 10 which had the Romanian visa on it. The prosecution states that during investigation, the said co-accused had disclosed that he had travelled to France on a Schengen visa in the year 2003 and had overstayed his visit. He had



flown back to India on 08th April, 2008. It is stated that the said co-accused wanted to marry a Romanian national for which he wished to apply for a Romanian visa, however, due to the fact that the passport showed the stamps for his overstay in France, he feared a problem for a Romanian visa. It is stated that the co-accused Gurjinder then contacted an agent, that is, the petitioner herein, who had met him in Italy. The prosecution states that the petitioner settled the visa by changing the pages of the passport and arranging the tickets for the said co-accused to travel to Romania, for a sum of Rs.2,50,000/-. The prosecution further states that the petitioner herein had sent the tickets and the visa to the father of the co-accused and had asked him not to disclose the name of the petitioner if caught by the immigration officer. The prosecution alleges that the date of the arrival of the co-accused, that is, Gurjinder Singh in India on 9th April 2008 has not been stamped on his passport and, in fact, the arrival date has also been changed.

3. The charge sheet has been filed on 28.03.2011.
4. The present petition seeks quashing of the above-mentioned case and the FIR due to the subsequent events that have unfolded and have made the prosecution of the above FIR incapable of yielding any result.
5. The learned counsel for the petitioner submits that by an order dated 04.04.2012 passed by the learned ACMM, the passport in question was released to the co-accused Gurjinder Singh for 6 months. On basis thereof, Gurjinder Singh applied for issuance of fresh passport. In the course of trial, and in the order dated 23.01.2019, the



statement of PW-Anil Kumar, RPO Jalandhar was recorded. He presented the report of Senior Superintendant, RPO wherein it is stated that the passport in question had been cancelled by their office and has, in fact, been destroyed. He submits that thereafter, repeated attempts have been made to secure the presence/recovery of the original passport of co-accused Gurjinder, however, all these have been failed. He further submits that, in fact, the co-accused Gurjinder himself is not traceable.

6. The status report dated 07.05.2024 has now been filed wherein again a reply received from RPO Jalandhar, Punjab has been placed on record, which *inter alia* states that a fresh passport was issued to the said co-accused Gurjinder Singh, however, there is no mention of the original passport, that is, in question.

7. The status report filed by the learned APP is taken on record.

8. In absence of the original passport, the further prosecution of the case is indeed meaningless and would, in fact, be a futile exercise.

9. The learned APP submits that a report from India Security Press at Nasik, which found that page no.9 and 10 of the passport had been replaced with the page no.9 and 10 of some other passport, is on record and therefore, can still continue against the petitioner.

10. In my view, the above submission cannot be accepted. In absence of the passport, the report itself can have no value. As such, the reliance placed on the report from Nasik also cannot help the case of the prosecution.

11. What is also relevant herein is that while summons were issued to the petitioner, including for offence under Section 12 of the



Passport Act, vide order dated 01.08.2011 passed by the learned ACMM, Sanction under Section 15 of the Passport Act was applied for only on 27.03.2017 and granted on 17.07.2017, that is much after summons had been issued to the petitioner.

12. In view of the peculiar facts of the present case, this Court has no option but to quash the above-mentioned criminal proceedings and the FIR.

13. Accordingly, the petition is allowed. FIR No.264/2008 registered at Police Station: IGI Airport, Delhi under Sections 420/468/471 of the IPC and Section 12 of the Passport Act, and all consequential proceedings emanating therefrom *qua* the petitioner is quashed.

NAVIN CHAWLA, J

MAY 10, 2024/rv/ss

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