
(2010) 09 RAJ CK 0066
In the Rajasthan High Court

Mohammed Yunus Khan

APPELLANT

Vs

The State of Rajasthan

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 411

Citation : (2010) 09 RAJ CK 0066

Hon'ble Judges : Satya Prakash Pathak, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.P. Pathak, J.—By this petition, the petitioner has prayed to quash and set aside the order dated 21.07.2010 passed by the learned Sessions Judge, Ajmer in Criminal Revision Petition No. 218/2010 and that of the learned Civil Judge (Junior Division) and Judicial Magistrate, First Class, Ajmer city (West) Ajmer in Criminal Case No. 11/2009 State v. Amar Singh and Ors. and to allow the application moved by the petitioner on 9.6.2010 before the trial court to permit him to go for Haj Pilgrimage on usual terms and conditions which may be deemed just and proper.

2. Briefly stated, the facts for the disposal of the present petition are that the petitioner is facing trial before the learned trial court for the offence u/s 411 IPC. On 29.6.2010, an application was moved by him stating, inter-alia, therein that the petitioner has never absented during the course of trial and he being muslim by religion, wants to go on Haj pilgrimage, therefore, the court's permission for issuance of pass-port is required. The learned trial court rejected the application on the very same day observing therein that when bail was granted to the petitioner during the course of trial, no such condition was imposed which could dis-entitle him to undertake Haj journey. The petitioner having felt aggrieved preferred a revision petition being Revision Petition No. 218/2010 before the learned Sessions Judge who vide its order dated 21.7.2010 dismissed the revision petition and confirmed the order of the Magistrate. Hence, this petition

has been filed.

3. The lawyers are on strike. The petitioner is present in person to argue his case.

4. The petitioner submits that the petitioner's matter has been considered by the Haj Pilgrimage Selection Committee and the petitioner has been selected to go for Haj. The petitioner has invited my attention to Annexure-1 in this regard. It is further submitted that he thereafter applied to the District Pass-port Cell for issuing him the pass-port but the request of the petitioner was rejected for the reason that there is adverse police report of a criminal case pending against him. It is submitted that the petitioner is lucky to get selected by the Rajasthan Haj Committee to go for Haj and only on account of pending criminal case if he is not allowed to go to Haj, this will be injustice to him. He submits that this Court at principal seat at Jodhpur in the similar circumstances has granted permission in the case of Mohammad Arif v. State of Rajasthan S.B. Criminal Misc. Petition No. 1553/2009 decided on 11.11.2009.

5. I have considered the above submissions.

6. The trial court dismissed the application on the ground that since on previous occasion no such restriction was imposed while granting bail to the petitioner, no such order can be passed. The learned revisional court rejected the revision petition for the reason that the pass-port was not required to be issued as the petitioner was facing trial and in those matters where criminal case is pending, the pass-port authority is not required to issue pass- port.

7. In the above discussed facts and circumstances of the case, one thing becomes absolutely clear that the petitioner is facing trial u/s 411 IPC. His application for selection to go for Haj pilgrimage has been allowed by the Haj Committee and he applied for pass-port. It also appears that the petitioner is a follower of muslim religion and to go on Haj is a very pious act for the muslims. As per the submissions made by the petitioner, it also appears that the petitioner is lucky to get the chance to go for Haj.

8. In the over-all facts and circumstances of the case and also considering the decision rendered by this Court in the case of Mohammad Arif (supra), I deem it proper to allow this petition.

9. In the result, this misc. petition is allowed, the orders passed by the trial court dated 29.6.2010 and by the revisional court dated 21.7.2010 are quashed and set aside, the application moved by the petitioner on 9.6.2010 is allowed and it is directed that the petitioner shall be permitted to go for Haj pilgrimage on his furnishing a personal bond in the sum of Rs. 1,00,000/- (Rupees One lac only) along with two sureties of Rs. 50,000/- (Rupees Fifty Thousand only) each to the satisfaction of the trial court with an undertaking that he shall appear before the trial court in the third week of March, 2011. This permission is granted to the petitioner to go for Haj pilgrimage only. It is further clarified that the condition imposed above is in addition to the conditions which had already been imposed

while granting bail to the petitioner by the trial court. It is further clarified that this permission is granted to the petitioner only in relation to the present matter where the Haj Committee has already selected the petitioner vide its letter dated 8.6.2010 (Annexure-1).