

(2017) 07 CAL CK 0062
In the Calcutta High Court
Case No : 1484 of 2017

Monirul Islam

APPELLANT

Vs

The State of West Bengal & Anr.

RESPONDENT

Date of Decision : 25-07-2017

Acts Referred:

Code of Criminal Procedure, 1973, Section 482, Section 401 - Saving of inherent powers of High Court - High Courts powers of revision

Citation : (2017) 07 CAL CK 0062

Hon'ble Judges : Siddhartha Chattopadhyay

Bench : SINGLE BENCH

Advocate : Sudipto Moitra, ?Abhra Mukherjee,?Biplab Das,?Vijay Verma,? Saswata Gopal Mukherjee, Sourav Chatterjee, Sayanti Santra, Anil Kr. Gupta

Judgement

1. Doubting the correctness of the order dated on 11.04.2017 passed by the learned A.C.J.M. Bolpur, in connection with G.R. Case 108 of 2010, the present petitioner has filed this revisional application under Section 401, read with Section 482 of Cr.P.C.
2. According to the petitioner he wanted to perform the "Haj Pilgrimage" at Mecca and for which he intended to go to Mecca for the same and for which he has applied before the passport authority. But the said authority most arbitrarily and capriciously withheld his such application only on the ground that a criminal case is pending against him.
3. Initially, he has filed an application before the learned A.C.J.M. Bolpur, on 3rd January, 2017 and the learned Court below has passed an order on that day recording "it is a matter on record that the

petitioner/accused has been enlarged on bail by the order of the Hon"ble High Court, Calcutta, with some stipulations that he shall attend the police station as and when required for the purpose of investigation, he shall not commit any further offence while on bail. In this position this Court has no scope to pass any further order in this regard. Let the petition regarding information be kept with the record." Thereafter, the present petitioner has filed another application on 11.04.2017 and prayed for disposal of his earlier application filed by him on 01.03.2017.

4. At the time of hearing, the learned Counsel appearing on behalf of the petitioner contended that he belongs to Muslim Community and as a part of a religious duty he intends to avail "Haj Pilgrimage" of this year.

5. On perusal of the impugned order, I find quite rightly learned trial court has rejected the said petition that in view of the High Court's direction i.e. he shall attend the police station as and when required for the purpose of investigation and that he shall not tamper with the prosecution case and he shall not commit any further offence, while on bail.

6. Learned Public Prosecutor-in-charge has submitted that investigation is still going on and that the charge-sheet or report in final form has not yet been submitted. He, however, submitted that there is no instance of tampering and during this period he had not committed any further offence. However, specific direction of the High Court is such that he shall attend the police station as and when required for the purpose of investigation.

7. However, in any event, there is no absolute right to demand a passport because that is not a right to a personal liberty even in the blackstonian sense. The passport is obviously a political document and the state may chose to give or to withhold. The State can very well withhold a person's journey to abroad, if it considers that the same would be harmful to the larger interests of our country and who themselves are in any event undesirable emissaries of our nation and who might, if allowed to go abroad,

cause many complexions. A system of passport is thus essential and requires a wide discretion.

8. But in this case it is alleged that the passport authority mainly raised objection since a criminal case is pending against him.

9. The learned trial court was mainly concerned, quite rightly, that since the stipulation has been given by the higher court, the petitioner is supposed to attend the police station as and when required for the purpose of investigation, so he has refused to entertain the application.

10. Admittedly, the investigation has not yet ended in charge-sheet or in final form. We are not in the know of it whether the presence of the accused is still required before the police station for the purpose of investigation or not at this stage. Therefore, I think that it would be appropriate to direct the learned A.C.J.M., Bolpur, to obtain a status report of this accused petitioner so far as the investigation is concerned and also to ascertain from the Investigating Officer whether the presence of the present accused petitioner is required for next three months or not. If the Investigating Officer's report speaks that presence of the accused petitioner before the local police station is no longer required for next three months in that case the accused petitioner's prayer can be considered in the light of the report to be submitted by the Investigating Officer, provided the accused petitioner files such application before the learned A.C.J.M. again.

11. With this directions and observations as made above, this C.R.R. No. 1484 of 2017 stands disposed of.

12. Let a copy of this judgment and the L.C.R. be sent to the learned Court below for information and taking necessary action in accordance with law.

13. Urgent certified photocopy of this Judgment and order, if applied for, be supplied to the parties upon compliance with all requisite formalities.