
(2006) 02 MAD CK 0130

In the Madras High Court

Case No : Criminal O.P. No. 25468 of 2005 and Criminal M.P. No. 7404 of 2005

State

APPELLANT

Vs

S. Rajendran

RESPONDENT

Date of Decision : 10-02-2006

Acts Referred:

Passports Act, 1967 — Section 10(3)

Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2006) 02 MAD CK 0130

Hon'ble Judges : M. Jeyapaul, J

Bench : Single Bench

Advocate : Chandrasekaran, Special Public Prosecutor, for the Appellant;
Prabhakaran for E. Narayanan, for the Respondent

Final Decision : Allowed

Judgement

M. Jeyapaul, J.—The petition is filed praying to set aside the order in Crl.M.P. No. 2561 of 2005 in C.C. No. 13942 of 2005 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

2. The respondent is the second accused in a case u/s 120-B r/w Sections 420, 467, 468 and 471 of the Indian Penal Code taken on file in C.C. No. 13942 of 2005 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

3. The respondent/second accused has been chargesheeted along with the other accused alleging that the respondent/second accused along with the other accused siphoned of foreign exchange worth Rs. 87,73,92,439/- to bogus companies at Hongkong and Singapore by cheating the Government of India through illegal foreign remittances by submitting false and forged documents in various banks.

4. The respondent/second accused had filed applications for return of his passport to enable him to undertake foreign tour twice earlier and those two applications were dismissed by the learned Additional Chief Metropolitan

Magistrate, Egmore, Chennai on the ground that investigation was pending.

5. The learned Additional Chief Metropolitan Magistrate, Egmore, Chennai has chosen to order return of passport enabling the respondent/second accused to visit Sri Lanka with a direction to return the passport on or before 20.9.2005. As there was a stay of the impugned order passed by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, the respondent/second accused could not undertake the tour to Sri Lanka.

6. The learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, having adverted to the fact that investigation was over and final report was filed, ordered now to return the passport of the respondent/second accused to undertake tour to Sri Lanka.

7. Learned Special Public Prosecutor appearing for the State would submit that the respondent/second accused has been convicted in one of the cases and he is facing seven other cases before various Courts. He would further submit that even after final report was filed, the State has despatched the letter rogatory to foreign countries to collect further information regarding the activities of the respondent/second accused in order to file further report before the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai. It is his vehement submission that the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai without taking into account the gravity of the matter and the consequences that would follow in the aftermath of the tour undertaken by the respondent/second accused to foreign countries, chose to direct return of the passport to him.

8. Per contra, learned counsel for the respondent/second accused would submit that the trial Court has rightly ordered to return the passport as the investigation was over and chargesheet was laid. It is his further submission that the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai has imposed certain conditions with a view to ensure the attendance of the respondent before the Court after he undertook the tour to Sri Lanka.

9. Though chargesheet was laid in this case, it is reported by the State that a letter rogatory has already been despatched to foreign countries for the purpose of collecting more information about the multifarious business transaction of the respondent with a view to file full-fledged chargesheet. The State apprehends that if the respondent/second accused, who has business connection globally, may hamper such process of further investigation undertaken by the State, if his passport is returned to him. The prosecution also feels that the respondent/second accused may flee from justice if he is permitted to travel abroad. Very serious allegation of cheating the Government of India by siphoning of foreign exchange worth Rs. 87,73,92,439/- is alleged against the respondent/second accused. Further the respondent/second accused faces many a case. Such a person cannot be permitted to travel abroad. In one of the criminal cases, it is reported that the respondent/second accused was convicted. On a perusal of

Sections 10(3)(d) and 10(3)(e) of The Passports Act, 1967, it is found that the passport authority has every authority to impound or revoke a passport if criminal proceedings are pending before a criminal Court in India.

10. In the above facts and circumstances, the apprehension in the mind of the prosecution cannot be simply ignored. The learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, has failed to consider the above aspects while permitting the respondent/second accused to travel abroad.

11. In the result, the order passed by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in C.C. No. 13942 of 2005 is set aside and the criminal original petition stands allowed. Consequently, connected criminal miscellaneous petition is closed.