

Sunitha Devadas vs Consulate General of India

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Court : Kerala

Decided On : Apr-11-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/3006/2023

Appellant : Sunitha Devadas

Respondent : Consulate General of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, AGAINST THE ORDER/JUDGMENTCC 63/2017 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,PARAPPANANGADI PETITIONER/2ND ACCUSED: SUNITHA DEVADAS AGED 48 YEARS W/O DEVADAS, POOVATHIKKAL HOUSE, NEAR ANAPARA GOVERNMENT SCHOOL, CHULLIYODU POST, SULTHANBATHERI, WAYANAD DISTRICT NOW RESIDING AT 2930, 33RD AVENUE, VANCOUVER, BRITISH COLOUMBIA, CANADA V 6N2G5, PIN - 673595 BY ADV K.P.SUDHEER RESPONDENT/S: 1 CONSULATE GENERAL OF INDIA 201 - 325, HOME STREET, VANCOUVER, B.C. -

CANADA 2 STATE OF KERALA REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI, PIN - 3 V.M.HASANUL BANNA S/O. MOHAMMED ABDU RAHIMAN, AZAD MANZIL, A.R. NAGAR P.O., MALAPPURAM DISTRICT, PIN - 676305 OTHER PRESENT: SR.GP-SRI.K.A.NAUSHAD. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11.04.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BECHU KURIAN THOMAS, J CRL.M.C.No.3006 of 2023 Dated this the 11th day of April, 2023

ORDER

Petitioner is the 2nd accused in C.C.No.63/2017 on the files of the Judicial First Class Magistrates Court, Parappanangadi, filed by the 3rd respondent, alleging offence under Section 500 of the Indian Penal Code, 1860. Petitioner is presently residing at Canada and during the pendency of the criminal case, her passport expired. Therefore to enable renewal of the passport she applied to the learned Magistrate for permission. By order dated 16-03-2023, the learned Magistrate permitted renewal of the passport but directed the petitioner to appear before Court within a period of two months after renewal of her passport since a warrant is pending against her

2. This petition under Section 482 has been preferred aggrieved

by the condition directing appearance within two months from the renewal of the passport and also the absence of any period of validity for which the passport could be issued. The learned counsel for the petitioner contended that in the absence of a stipulation as to the period of validity of the passport, generally it will be renewed only for one year and further that, petitioner is willing to participate in the trial. However, the period of two months for appearance after the renewal of the passport would cause hardships as the petitioner will be able to travel to India only in the month of July 2023.

3. I have heard the learned Central Government Counsel as well as the learned Public Prosecutor and the counsel appearing for the 3rd respondent also.

4. On a perusal of the impugned order, it is noticed that though

the learned Magistrate granted permission to the petitioner to renew her passport, specific validity period has not been mentioned. As rightly pointed out by the learned counsel for the petitioner as well as the learned Central Government Counsel, in the absence of any stipulation on the period for which passports could be renewed, it will be renewed only for a period of one year. Further, the petitioner has been directed to appear before the court within two months of the renewal of the passport.

5. Since the learned Magistrate has already granted permission

for renewal of the passport, it is only appropriate, especially since the petitioner has offered to participate in the trial and her residence abroad that the passport be renewed for a minimum period of two years. Further, since the learned Magistrate itself has granted permission to the petitioner to appear before the court within two months, I am of the view that considering the peculiar circumstances, the time for appearance before the learned Magistrate should be extended till 01-08-2023.

6. Therefore there will be a direction to the Passport Issuing

Authority under the 1st respondent that in modification of the order

dated 16-03-2023 in C.M.P.No.1155/2023 in C.C.No.63/2017 on the files of the Judicial First Class Magistrates Court, Parappanangadi, the petitioner will be entitled to renew his passport for a minimum period of two years notwithstanding his involvement in C.C.No.63/2017 on the files of the above mentioned Court. There will be a further direction that petitioner will be at liberty to appear before the Magistrate on or before 01-08-2023. Needless to mention that the non-bailable warrant issued against the petitioner shall be kept in abeyance till 1-08-2023. The criminal miscellaneous case is disposed of as above. Sd/- BECHU KURIAN THOMAS JUDGE AJM APPENDIX OF CRL.MC 3006/2023 PETITIONER

ANNEXURES ANNEXURE A 1 TRUE COPY OF COMPLAINT DATED OF 2017 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, ANNEXURE A 2 TRUE COPY OF LETTER NO. 20-2002458246 DATED 09.11.2020 ISSUED BY THE 1ST RESPONDENT. ANNEXURE A 3 :- TRUE COPY OF ORDER DATED 02/12/2020

IN THE CMP NO. 2695 OF 2020 IN CC NO. 63 OF 2017 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE-I ANNEXURE A 4 TRUE COPY OF LETTER NO. VAN/ CONS/22- 2004318714 DATED 19.1.2023 ISSUED BY THE 1ST RESPONDENT ANNEXURE A 5 TRUE COPY OF PETITION DATED 13/03/2023 (CMP NO. 1155/2023) SUBMITTED BY THE PETITIONER BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, ANNEXURE A 6 TRUE COPY OF OBJECTION FILED BY THE THIRD RESPONDENT DATED 14.3.2023 IN CMP NO. 1155/2023 IN CC NO. 63/2017 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT, PARAPPANANGADI. ANNEXURE A 7 CERTIFIED COPY OF ORDER DATED IN C.C. NO. 63 OF 2017 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE,

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