

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

BEFORE HON.MR. JUSTICE ALOK VERMA, JUDGE

CRR No. 539/2015

Sunil Sharma S/o Madanlal Sharma

Vs.

State of M.P. & another

Mr. Subodh Abhyankar, learned counsel for the petitioner.
Ms. Preetha Moitra, learned Dy. Govt. Advocate for the
respondent/ State.

ORDER

(Passed on this 19th day of August, 2015)

This criminal revision is directed against the order dated 18.03.2015 passed by the learned Special Judge, Bharwani in Special Session Trial No.08/2010 whereby the learned Special Judge dismissed the application filed by the present applicant seeking permission to apply for issuance of passport. According to the applicant, he is running a business of coaltar plant and rubber tyres and for this purpose, he requires to visit various foreign countries and for the purpose of foreign travel, he requires passport.

This application was opposed by the prosecution on the ground that in crime No.123/2004 under Section 294, 323, 506 of IPC, the present applicant suffered conviction and if he is allowed to prepare passport, there is a likelihood of his absconding. A report was also received from the concerning Superintendent of Police. According to which, he sent a report to Passport Officer in which, it was mentioned that the present applicant was convicted in earlier criminal case.

The learned Special Judge observed that as the report of the Superintendent of Police has already been sent to the Passport Officer, the application he proceeded to, is hereby

dismissed.

Section-6 of Passport Act, 1967 provides the ground on which the passport and other travel document may be refused. The clause-(e) to (g) of Sub-section-2 of Section-6 of the Act provides as under :-

6. Refusal of passports, travel documents, etc. -

- (1)**
- (2)**
- (a)**
- (b)**
- (c)**
- (d)**
- (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;**
- (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;**
- (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;**
- (h)**

It is apparent that an applicant should have been committed in the last five years and that too for a sentence not less than two years. However, in the present case, it appears that in earlier case, he was convicted in the year 2005 and therefore, the bar created by Clause-(e) of Sub-section 2 of

Section-6 does not arise in the present case. Even, if it creates an impediment it is for the Passport Officer to see whether the conviction in earlier case creates any bar for issuance of passport and other travel document.

The Clause-(f) of Sub-section 2 of Section-6 says that when the criminal proceedings are pending against the applicant, the passport may be refused. However, the present case is a minor in nature and in such case, the permission should be granted by the Court for preparation of such travel document. The discretion lies with the Passport Officer to see whether the nature of the offence allegedly committed by the applicant is such that warrants refusal of passport and other travel document.

In this view of the matter in considered opinion of the Court, the learned Special Judge erred while refusing permission to the present applicant.

Accordingly, this criminal revision deserves to be allowed and therefore, allowed.

The impugned order is set-aside.

The applicant is permitted to apply for issuance of passport. On such application, the Passport Officer is at liberty to take action, as per law.

With the aforesaid direction and observations, this criminal revision stands disposed of.

Certified copy, as per rules.

(Alok Verma)
Judge

Chitranjan