

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5002 OF 2017**

Dr. Zakir Abdul Karim Naik

..Petitioner

Vs.

State of Maharashtra & Ors

..Respondents

**Dr. J. P. Dhanda a/w Mr. Ayyappan Pillai a/w Mr. Vineet Dhondur for the
Petitioner**

**Mr. A. C. Singh Addl Solicitor General of India a/w Mr. Sandesh Patil for
the Respondent Nos.1 and 2 & 4**

Mr. H. S. Venegaonkar for the Respondent No.5

Mr. Deepak Thakare, PP a/w Mr. R. M. Pethe APP for the Respondent State

Mrs. A. S. Pai Addl PP for the Respondent No.3

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 20th JUNE, 2018**

P.C.

1 The above Writ Petition has been filed by the Petitioner who is presently ensconced in Malaysia. The above Petition has been inter-alia filed for the following reliefs:

(a) Thereby directing the respondents Nos.1 to 5 to submit status report with evidence before this Hon'ble Court in the cases pending against the petitioner.

(b) Directing the respondent No.2 to submit the enquiry report conducted by Bombay Police regarding the petitioner before this Hon'ble Court.

(c) Directing the Respondent No.3 to submit charge sheet in case No.RC 05/2016/NIA/Mumbai before the competent court of law within the period of 4 weeks.

(d) Directing the Respondent No.4 to cancel its order through which the passport of the petitioner was revoked and thus re-authenticate the passport of the Petitioner.

(e) Directing the Respondents to consider the request of the Petitioner to get his statements etc recoded through video conferencing and further direct the respondents with the necessary directions which this Hon'ble Court may deem fit in the circumstances of the case.

(f) Grant stay of arrest of the Petitioner.

2 In so far as the above prayer clause (d) is concerned, we had opined that the said prayer can be sought by the Petitioner by filing independent proceedings, as according to us the revocation of the passport is an independent cause of action. We have therefore not considered the said prayer.

3 The above Petition has been affirmed in Malaysia before a notary public. Much can be said of the manner in which the above Petition has been got affirmed in Malaysia.

4 Be that as it may, it is required to be noted that offences have been registered against the Petitioner and others which are punishable under

Section 153A of the IPC and Sections 10, 13 and 18 of the Unlawful Activities (Prevention) Act 1967. In so far as the offence punishable under Section 153A is concerned, the maximum punishment is for a period of 3 years and in so far as the offence under the Unlawful Activities Act, especially Sections 10, 13 and 18 thereof maximum punishment is ranging from 5 years, and to life imprisonment in so far as Section 18 is concerned.

5 It is required to be noted that the Petitioner has not joined the investigation and the reliefs which we have adverted to hereinabove have been sought in the absence of the Petitioner joining the investigation. The Learned Counsel appearing for the Petitioner was at pains to demonstrate that no case for the prosecution of the Petitioner either under Section 153A or Unlawful Activities Act, in fact has been made out. How such a submission could be countenanced by us in the absence of the Petitioner joining the investigation, therefore begs an answer. We had therefore put to the Learned Counsel appearing for the Petitioner whether the Petitioner would join the investigation for which appropriate arrangements could be made as the Enforcement Directorate, National Investigation Agency and the Ministry of External Affairs, are represented before us. The Learned ASG Mr. Anil Singh is in fact appearing for the External Affairs Ministry. But a statement one way or the other was not forthcoming from the Learned Counsel for the Petitioner.

6 We are informed by the Learned Counsel for the National Investigation Agency Mrs. Pai that charge sheet has been filed, the Petitioner has been declared as a proclaimed offender, and the proceedings for his extradition have been initiated before the authorities in Malaysia.

7 Hence having regard to the reliefs sought in the above Petition and having regard to the fact that the Petitioner has not shown any intention or desire to join the investigation, we are of the view that the aforesaid reliefs can not be countenanced by us in our Writ Jurisdiction having regard to the aforesaid facts. The above Writ Petition is accordingly dismissed.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]