

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.9.2015.

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

W.P.No.21729 of 2015

M.Tamilselvan

...Petitioner

vs.

1. The Regional Passport Officer,
Chennai Royala Towers,
2 and 3 IV Floor, Old No.785,
New No.158, Anna Salai,
Chennai 600 002.
2. The State rep. by
The Inspector of Police,
H3 Thandaiyarpet Police Station,
Thandaiyarpet, Chennai 600 081.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent to return the renewed Passport of the petitioner in File No.MA 1077656820514 renewed passport bearing No.L8970136 to the petitioner.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel for
M/s.AL.Gandhimathi
For R1 : Mr.Su.Srinivasan,
Assistant Solicitor General
For R2 : Mrs.P.Rajalakshmi, Govt. Advocate

ORDER

Seeking a direction to the first respondent to return the renewed passport in File No.MA 1077656820514, bearing No.L8970136, the petitioner has come forward with the present writ petition.

2. It appears that the petitioner was issued the passport earlier. On his request, the passport was renewed on 5.5.2014. A case has been registered against the petitioner in Crime No.181/2014 under sections 341, 438, 294(b), 506(ii) IPC. After receiving information from the second respondent about the said case, the first respondent has issued a show cause notice calling upon the petitioner to show cause as to why the renewed

passport shall not be impounded.

3. The petitioner, who appeared in pursuance of the show cause notice issued, in due compliance of the direction of the first respondent, surrendered the passport and thereafter, he has come forward before this court seeking return of the passport.

4. Learned Senior Counsel appearing for the petitioner submitted that the offence alleged is one between the petitioner and his uncle with respect to the driving of the car belonging to him. Apart from that there is no other case against the petitioner. A mere registration of a case, per se, is not a ground to impound a passport. There is no specific clause requiring the petitioner to indicate the case registered. It is a case of renewal of passport. The petitioner's wife and children have been given passports. It is not automatic in all cases that an impounding can be ordered. Therefore, considering the facts of the case, passport can be returned.

5. The learned Assistant Solicitor General, based upon the counter affidavit, submitted that the petitioner gave a statement that no criminal case is pending. It is not that registration of the case is important, but, the suppression of the materials. Section 10 stands on a different footing to section 6. The police officials have also recommended against the issuance of the passport to the petitioner. Therefore, no interference is required.

6. The only factor that stands against the petitioner is the suppression of material information. It is a case of renewal of passport. The alleged occurrence is said to have happened just few months before the renewal of the passport. While exercising the power under section 10(3), the passport authority is not required to impound in all cases. It has to be seen from case to case. Though more than one year has lapsed from the date of occurrence, i.e. 8.3.2014, no final report is filed as on to day. The major offence mentioned in the said case is only 506 (ii) IPC, which is still said to be at the investigation stage. There is no other case pending in any court of law against him as of now. The power exercised under section 10(3) is different from one that is required to be exercised under section 6 of the Passports Act, 1967. Section 6 deals with the refusal of passport whereas section 10 deals with the impounding. The passport lies with the respondent from 10.7.2014. More than one year has lapsed. No final order has been passed till now. Considering the same, this court finds that this is sufficient for the purpose of this case as the passport is in the custody of the respondent for more than a year. The petitioner has

suffered sufficiently.

7. Taking into consideration of the above, this court is inclined to direct the first respondent to return the passport of the petitioner bearing No.MA 1077656820514 within a period of two weeks from the date of receipt of copy of this order. No costs.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

ssk.

To

1. The Regional Passport Officer,
Chennai Royala Towers,
2 and 3 IV Floor, Old No.785,
New No.158, Anna Salai,
Chennai 600 002.

2. The Inspector of Police,
H3 Thandaiyarpet Police Station,
Thandaiyarpet, Chennai 600 081.

+1 cc to Mr.A.L.Gandhimathi, Advocate (sr.52687)

+1 cc to Government Pleader (sr.52901)

+1 cc to Mr.Su.Srinivasan, A.S.G. (sr52846)

सत्यमेव जयते

W.P.No.21729 of 2015

AR-II (co)

cp 16/10/2015

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