

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.27341 of 2014

&

MP.No.1/2014

R.Chandrasekar
S/o.Rajagopal, No.5,
Sindha Durai Madha Koil,
South Lane Beach Road,
Nagapattinam.

...Petitioner

Vs

- 1 The Regional Passport Officer,
Regional Passport Office, Municipal Water
Tank Building, W.B. Road,
Trichirappalli- 620008.
- 2 The Inspector of Police,
Crime Branch CID,
Nagapattinam District.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the 1st Respondent to return the Petitioner's Original Passport bearing Passport No.H 9235892 dated 07.10.2010 which has been impounded by the 1st Respondent based on the requisition of the 2nd Respondent dated 16.08.2013.

For Petitioner : Ms.Geetha Senthil Kumar

For Respondents : Mr.Haja Mohideen Gisthi for R1
Mr.S.Gunasekaran,
Government Advocate for R2

ORDER

Heard Ms.Geetha Senthil Kumar, learned counsel for the petitioner and Mr. Haja Mohideen Gisthi for the first respondent and Mr.S.Gunasekaran, learned Government Advocate appearing on behalf of the second respondent.

2. This petition has been filed for issuance of writ of mandamus directing the first respondent to return the Petitioner's Original Passport bearing Passport No.H 9235892 dated 07.10.2010 which has been impounded by the first Respondent based on the requisition of the second respondent dated 16.08.2013.

3. The petitioner seeks direction to the first respondent to return the original passport bearing Passport No.H 9235892 dated 07.10.2010 which has been impounded by the first respondent based on the requisition given by the second respondent on 16.08.2013.

4. The second respondent-Police based on the criminal compliant dated 30.08.2012, which is pending at that point of time had informed the first respondent, consequent to which the first respondent directed the petitioner to surrender the Passport and now the Passport has been impounded and kept by the first respondent.

5. A counter affidavit has been filed by both the respondents. From the counter affidavit filed by the second respondent it is seen that a case has been registered against the petitioner based on the complaint lodged by one Jamal Yusuff and FIR in Crime No.5 of 2006 for offence under sections 420, 467 and 471 of IPC was registered and the matter was taken up for investigation.

6. Subsequently, after investigation, final report has been filed and the same has been taken cognizance by the learned Chief Judicial magistrate, Nagapattinam in CC No.1 of 2013 and the matter is now pending for the defence side witness. On the date when the counter affidavit was filed in October 2014, it was not stated that the case was posted for further hearing on 01-11-2014.

7. In the light of the fact that the charge sheet has already been filed and the matter is taken up by the learned Chief Judicial Magistrate, Nagapattinam and defence side witnesses have to be examined, this court is of the view that the petitioner should file an application before the court concerned for returning of the Passport. It may be true that the passport has not been directed to be impounded by the Court. Nevertheless on a requisition made by

the second respondent-police/defacto complainant, the first respondent impounded passport.

8. Now the first respondent cites the pendency of the complaint of the criminal case in which charge sheet has been filed, as a reason for not releasing passport. Therefore, this court is of the view that without knowledge of the learned Chief Judicial Magistrate, Nagapattinam, the petitioner's passport should not be returned. Therefore, there shall be a direction to the petitioner to file application before the learned Chief Judicial Magistrate, Nagapattinam alongwith a copy of this order. If such an application is filed before the learned Chief Judicial Magistrate, Nagapattinam, the same shall be considered the petitioner's application stating that he is an income tax assessee, his entire family resides in Tamil Nadu and he has got business connection, for which he has to go to Muscat and it is only for his business visit and he will return to India. The petitioner is ready to furnish sureties etc. These matters shall be considered by the learned Chief Judicial Magistrate, Nagapattinam and thereafter, an order shall be passed, on merits and in accordance with law.

9. The writ petition is disposed of with the above direction. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (J)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Regional Passport Officer,
Regional Passport Office, Municipal Water
Tank Building, W.B. Road,
Trichirappalli- 620008.

2 The Inspector of Police,
Crime Branch CID,
Nagapattinam District.

1 CC to the Government Pleader, SR.No. 16992

1 CC to Mr.Haja Mohideen Gisthi, Advocate SR.No. 16852

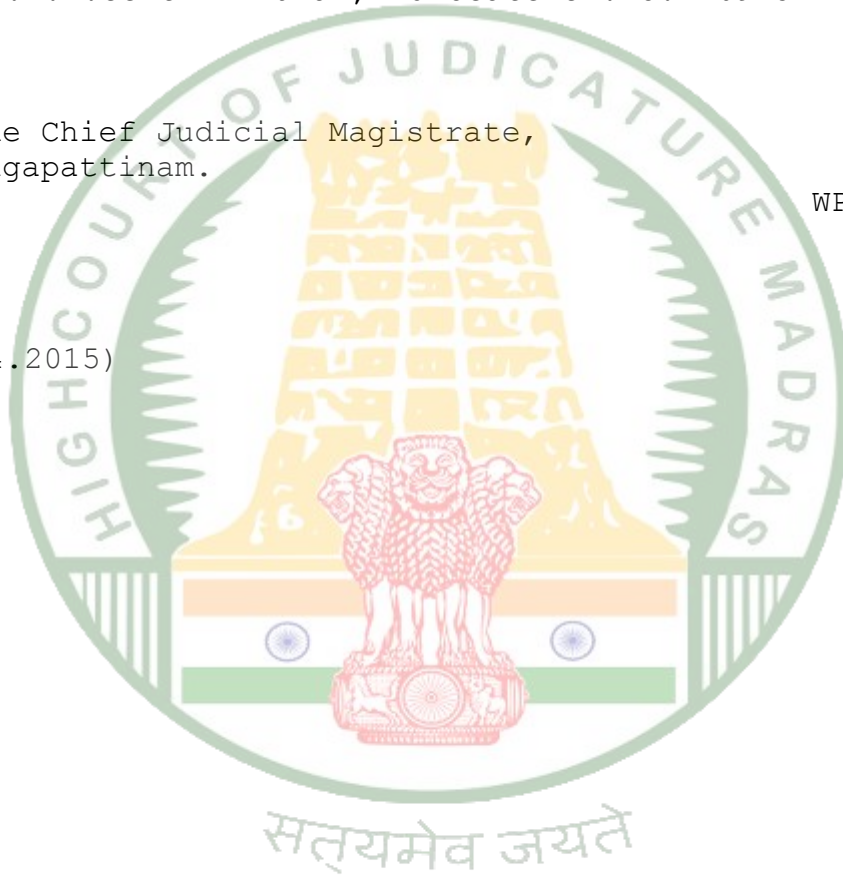
1 CC to Mr.T.P.Senthil Kumar, Advocate SR.No. 16923

Copy to

The Chief Judicial Magistrate,
Nagapattinam.

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MP.1/2014

PA (CO)
PSI (07.04.2015)



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