

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2015

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THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

W.P.No.29471 of 2013

and

M.P.Nos.1 of 2013 and 1 of 2014

T.P.Kannan

... Petitioner

vs.

The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Rayala Towers 2 & 3,
IV Floor, New No.158,
Anna Salai,
Chennai-600 002.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue Writ of Certiorarified Mandamus calling for the orders 1300015_CPC_MAS, dated 28.8.2013 of the respondent and orders enclosed along with the letter 1300015_CPC_MAS dated 24.9.2013 of the respondent and quash the same and direct the respondent to release petitioner's passport bearing No.K0339900.

For Petitioner : Mr.O.Padmaprakash

For Respondents : Mr.N.Mariappan
Central Govt. Counsel

ORDER

Heard Mr.O.Padmaprakash, learned counsel appearing for the petitioner and Mr.N.Mariappan, learned Central Government Counsel appearing for the respondent.

2. The petitioner has challenged the order dated 28.8.2013 passed by the respondent, in which, the respondent has rejected the petitioner's request for re-issuing the passport on the ground that criminal complaint is pending in Crime No.1110/2011 on the file of XVII Metropolitan Magistrate Court, Chennai.

3. According to the petitioner, the said criminal complaint

is false and in any event, the petitioner is regularly appearing before the Criminal Court. Since, charge sheet has already been laid before the XVII Metropolitan Magistrate Court, Chennai, the petitioner requested the respondent to re-issue the passport on the ground that he desires to visit his son in Singapore and for certain personal reasons. A show cause notice was issued to the petitioner and the petitioner has submitted his explanation setting out all the reasons. By the impugned order, the respondent rejected the petitioner's request solely on the ground that criminal complaint is pending.

4. In my view, mere pendency of the criminal complaint is not an absolute bar for re-issuing the passport, more particularly, in the light of Section 7 of the Passport Act, 1967, which reads as follows:-

"7.Duration of passports and travel documents.- A passport or travel document shall, unless revoked earlier, continue in force for such period as may be prescribed and different periods may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class:

Provided that a passport or travel document may be issued for a shorter period than the prescribe period-

(a) if the person by whom it is required so desires; or

(b) if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period."

5. By virtue of power under Section 7 of the Passport Act, 1967, the passport authority, for reasons to be communicated in writing, can issue passport or travel document for a shorter period. Further, as per the guidelines issued in the Passport Manual, 2001, an undertaking can also be obtained from the petitioner stating that the petitioner will appear before the Court concerned at any time during the continuance in force of the passport so issued.

6. Taking into consideration the fact that the criminal complaint is pending since 2011 and the petitioner is also appearing regularly before the XVII Metropolitan Magistrate Court, Chennai and that he requires passport to visit his son, who is in Singapore and also his grandchildren in USA. Therefore, the respondent should consider the petitioner's application in the light of Section 7 of the Passport Act, 1967.

7. In the light of the above, the writ petition is allowed and the impugned order dated 28.8.2013 is quashed and the matter is remanded back to the respondent for fresh consideration and the respondent shall consider the petitioner's application and re-issue the passport for a limited period of one year, after obtaining requisite undertaking that the petitioner will appear before the concerned Court even during the subsistence of the passport. Such order is directed to be passed by the respondent, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P.Nos.1 of 2013 and 1 of 2014 are closed.

Sd/-

Asst.Registrar (Records)

/true copy/

Sub Asst. Registrar

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To

The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Rayala Towers 2 & 3,
IV Floor, New No.158,
Anna Salai,
Chennai-600 002.

1 cc to M/s. O. Padmaprakash, Advocate, sr. 6132
1 cc to Mr.N. Mariappan, Advocate, Sr. 642

W.P.No.29471 of 2013

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