



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD) .No.18054 of 2015

and

M.P(MD)No.1 of 2015

Thanesh

...Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli.

2.The Regional Passport Officer,
Passport Issuing Authority,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.

3.The Inspector of Police,
Pazhavor Police Station,
Tirunelveli District.

...Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call for the impugned order passed by the second respondent, dated 24.09.2015 in policy ref No.1500713-POL-MDU, file No.MD2068546927115, quash the same.

For Petitioner

: Mr.M.Subash Babu

For R-1 & R-3

: Mr.D.Muruganantham

Additional Government Pleader

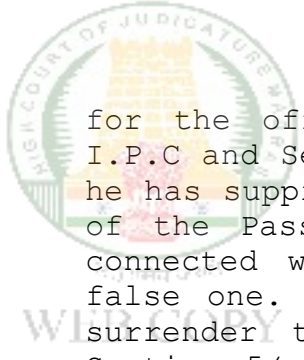
For R-2

: Mr.D.Saravanan

ORDER

The Writ Petition has been filed praying for a Writ of Certiorari to call for the impugned order passed by the second respondent, dated 24.09.2015 in policy ref No.1500713-POL-MDU, file No.MD2068546927115, quash the same.

2. The case of the petitioner is that the petitioner has completed his graduation in Mechanical Engineering in the year April 2012. He has applied for passport for securing a job abroad. On his application No.MD2068546927115, dated 25.05.2015, passport was issued to him on 18.06.2015 in Passport No.N0451410. While the matter stood thus, the second respondent has directed the petitioner to surrender his passport, within three days from the date of intimation on the ground that the petitioner had been involved in a criminal case in Crime No.258 of 2011



for the offence under Sections 147, 148, 294(b), 323, 324, 506(ii) of I.P.C and Section 3 of TNPPDL Act and the same is under investigation and he has suppressed the same, which is an offence under Section 10(3)(e)(h) of the Passport Act, 1967. But, actually the petitioner is no way connected with the above said offence and the entire allegation is a false one. But, the second respondent has directed the petitioner to surrender the passport without following the procedures mentioned in Section 5(c) of the Passport Act, 1967 and hence, challenging the said order, the present Writ Petition has been filed.

3. When the matter is taken up for consideration, the learned counsel for the petitioner by relying on the judgment of this Court in *V.Jaihar William vs. State of Tamil Nadu and two others* reported in 2014(2) CWC 684 submitted that mere pendency of F.I.R is not a bar for issuance of a passport and unless the Judicial Magistrate takes cognizance of the offence, on filing of charge-sheet on completion of investigation, it cannot be said that the proceedings are pending before the Criminal Court. Therefore, in the instant case, since charge sheet has not been filed so far, absolutely there is no suppression on the part of the petitioner and hence, the impugned order to surrender the passport, is liable to be set aside.

4. The learned Additional Government Pleader on instructions submitted that after completion of investigation, the police has filed a charge sheet before the jurisdictional Magistrate and the same was returned. But, thereafter, the same was not re-submitted before the Court.

5. The second respondent/Regional Passport Officer has filed a counter affidavit, wherein it has been held as follows:

"(7) It is submitted that,

-Once the petitioner submits his explanation, if this case is pending before a criminal Court in India, warrant or summons for the appearance, or a warrant for the arrest, the passport will be impounded under Section 10(3)(e)(h) of Passport Acts, 1967(or)

-Once the petitioner submits the reply to the show cause notice stating that this case does not attracts under Section 10(3)(e)(h) of Passports Act, 1967, police verification report will be re-initiated and the case will be processed as per rules."

6. However, the learned counsel appearing for the second respondent submitted that the order impugned in this Writ Petition is only a show-cause notice and if the petitioner submits his reply to the said show-cause notice, necessary orders will be passed by considering the entire factual aspects and therefore, there is no need to set aside the order passed by the second respondent.

7. In view of the above submissions, the petitioner is directed to send his reply to the second respondent within a period of one week from the date of receipt of a copy of this order to the impugned notice, dated 24.09.2015. In receipt of the same, the second respondent is directed to conduct enquiry and thereafter by considering the entire factual aspects and pass appropriate order, within a period of four weeks from



the date of reply from the petitioner.

With the above direction the Writ Petition is disposed of.
No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

pm
To

1.The Superintendent of Police,
Tirunelveli.

2.The Regional Passport Officer,
Passport Issuing Authority,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.

3.The Inspector of Police,
Pazhavor Police Station,
Tirunelveli District.

+1CC to Mr.M.Subash Babu Advocate Sr.No.62011
+1CC Spl.Government Pleader Sr.No.61686

GJM/GSV/PM/30.10.15-3P-6C

W.P (MD) .No.18054 of 2015
15.10.2015