

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.7580 of 2016

Meivazhisalai Sengole

... Petitioner

Vs

1.The Regional Passport Officer
Regionaxl Passport Office
Chennai Rayala Towers
No.2 and 3, IVth floor
Old No.785 New No.158
Annasalai, Chennai-2.

2.The Inspector of Police
Srimushnam Police Station Srimushnam
Kattumannarkoil Taluk,
Cuddalore District.

... Respondents

Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the first respondent to return petitioner's passport bearing No.H9572839 dated 20.04.2010 and to permit him to travel to Sharjah, United Arab Emirates and stay for a period of three months.

For Petitioner	: Mr.S.Selvathirumurugan
For Respondents	: M/s.G.Hema, CGSC for R1. Mr.S.Pattabiraman, GA for R2.

सतयमेव जयते
O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of mandamus directing the first respondent to return petitioner's passport bearing No.H9572839 dated 20.04.2010 and to permit him to travel to Sharjah, United Arab Emirates and stay for a period of three months.

3.The petitioner is the founder and correspondent of Dhava Ammudam Matriculation Higher Secondary School at Shrimushnam. The petitioner got two children by name Salai Kanagadharan/son

and Salai Anjana/daughter. The petitioner's son is employed in Dubai as Assistant General Manager in Ajmal Steels, residing in Dubai alongwith his wife and children. The petitioner being a grand parent wishes to be with his grand children on special occasions, for that purpose alone the petitioner is in need of his passport.

4.The petitioner applied for passport before the Regional Passport officer at Chennai in the year 2010 and in the said application he mentioned no criminal case is pending against him and passport was issued to him on 20.04.2010 in passport No.H9572839. The said passport was used by the petitioner during December 2010 to visit his daughter, who was then residing at Singapore along with her family.

5.On 16.12.2010, the Regional Passport Officer issued a memo calling upon the petitioner as to why the passport issued to him should not be impounded under Section 10(3)(e) of Passport Act, 1967, referring criminal case in Cr.No.304 of 1998 pending on the file of Judicial Magistrate No.II, Virudhachalam. The petitioner submitted his explanation on 17.01.2011, stating that the petitioner's name was not figured in FIR which was registered 12years ago and the name of the petitioner was inadvertently included in the charge sheet by the police. It is the case of the petitioner that the police has added him as accused No.19 in the charge sheet. The petitioner surrendered his passport before the Regional Passport Office, Chennai on 17.01.2011.

6.The petitioner approached this Court in WP.No.11333 of 2013 praying for issuance of writ of mandamus directing the regional passport officer to return the passport for the purpose of travelling to Sharjah and UAE and stay there for a period of three months. This Court by an order dated 19.06.2013 had passed the following order :-

"5.The question as to whether the passport should be returned to petitioner for the purpose of going abroad is an issue to be decided by the learned Magistrate before whom the matter is now pending.

6.The petitioner is given liberty to make an application before the learned Judicial Magistrate No.II, Virudhachalam in CC.No.111 of 2007. In case any such application is made, the same shall be considered and disposed of by the learned Magistrate, on merits, as expeditiously as possible, and in any case, within a period of two weeks from the date of receipt of application. The learned Magistrate is directed to consider the fact that the petitioner voluntarily surrendered the passport before the second

respondent and he has been continuously appearing before the Court and the said fact should guide him disposing of the application for release of passport.

7.The writ petition is allowed to the extent indicated above. No costs. Connected miscellaneous petition is closed."

7.Thereafter, the petitioner filed CrI.MP.No.5421 of 2015 on 10.08.2015 praying for appropriate orders directing the Regional Passport Officer to return the passport. The respondent police filed a counter stating that the petitioner has no locus standi to pray the concerned criminal court. The learned Magistrate on 03.09.2015 dismissed the petition doubting his jurisdiction to entertain the petition. The relevant findings are briefly stated hereunder :-

"1.The FIR in Crime No.304 of 98 was pending.

2.The Court had taken the case on its file only in the year 2007.

3.The Passport was issued on 20.04.2010.

4.Regional Passport Officer issues show cause notice for impounding the passport on 16.12.2010.

5.The petitioner had voluntarily surrendered passport on 17.01.2011.

6.It is only the passport authority which could issued and imposed the passport as per the passport Act 1967.

7.The Court has not passed any orders regarding passport."

Now in view of the above order passed by the learned Magistrate pursuant to the direction given by this Court in WP.No.11333 of 2013, the petitioner has again come forward with the present writ petition.

8.Heard the submissions of learned counsel appearing for the petitioner and the learned Central Government Standing Counsel for first respondent and the learned Government Advocate for second respondent who accepts notice on behalf of the respondent.

9.Though, the petitioner prayed for larger relief to direct the first respondent to return the passport to travel to Sharjah and United Arab Emirates. But, this Court is not inclined to give any positive direction to the petitioner.

10.Considering the facts and circumstances and without going into the merits of the same, this Court directs the petitioner to submit fresh representation alongwith the copy of this order before the first respondent, within one week from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to consider the representation of the petitioner, on merits and in accordance with law, within a period of two weeks, thereon, after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any.

11.The writ petition is disposed of accordingly. No costs.
tsh

s/d-
Assistant Registrar(AS)

True Copy

Sub-Assistant Registrar

To

1. The Regional Passport Officer
Regionaxl Passport Office, Chennai
Rayala Towers, No.2 and 3, IVth floor
Old No.785 New No.158
Annasalai, Chennai-2.
2. The Inspector of Police
Srimushnam Police Station Srimushnam
Kattumannarkoil Taluk,
Cuddalore District.

+ 1 cc to Mr.S.Selvathirumurugan Advocate, SR 15171

+ 1 cc to Govt.Pleader, High Court, Madras SR 15744

ctk(co)
prk28/3

W.P.No.7580 of 2016

WEB COPY