



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.22567 of 2015

- 1.Ramesh Ramiah
- 2.Kalpana Ramiah
- 3.Muthu Vijayan Ramiah
- 4.Sakunthala Ramiah

... Petitioners

Vs.

1.The Passport Officer,
Tiruchirapalli,
Government of India,
Ministry of External Affairs,
Passport Office,Trichy.

2.The Chief Immigration Officer,
Immigration Department,
Ministry of External Affairs,
Government of India,
Shastri Bhavan,Haddows Road,
Chennai 600 006.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records from the 1st respondent in File No. PC 445-449/07 dated 24.03.2008 and quash the same and consequently direct the first respondent to release the passport of the petitioners.

For Petitioners : Mr.N.R.Ilango
Senior Counsel for Mr.P.Thilakkumar

For Respondents : Mrs.S.Srimathy

ORDER

This writ petition has been filed challenging the notice issued by the 1st respondent in File No. PC 445-449/07 dated 24.03.2008 regarding impounding the passport of the petitioners.

<https://hcservices.ecourts.gov.in/hcservices/>

2.According to the petitioners, the first petitioner



married Dr. Maheswari and thereafter, due to some dispute the above said Maheswari filed a complaint against all the petitioners for offences under Sections 498(A), 406 IPC and Section 4 of Dowry Prohibition Act and Section 4 of Tamilnadu Prohibition of Harassment of Women Act. Based on the complaint, investigation has been completed and charge sheet has been filed and the same is pending in C.C.No.540 of 2006 on the file of the learned Judicial Magistrate No.1, Thanjavur.

3. Thereafter, the second petitioner and another person filed a quash petition before this Court and this Court by order dated 02.02.2010 in CrI.O.P.(MD) 2535 of 2008 quashed the above complaint against them. The remaining accused preferred another petition to quash the above criminal proceedings before this Court in CrI.O.P.(MD) No.5186 of 2013 and the same is pending.

4. Now, based on the complaint given by the above said Maheswari, the authorities initiated action under Section 10(3)(e) of Indian Passports Act, 1967 to impound the petitioner's passport. The above proceedings have been initiated based on the petition filed by the above said Maheswari before this Court in CrI.O.P.(MD) No.6791 of 2007 seeking direction to the learned Judicial Magistrate to take action against this petitioner under the Passport Act.

5. Based on the order passed by this Court, the present impugned order was passed by the first respondent. The petitioners are residents of United States of America and upon impounding of the passport, they have been detained by the police. Thereafter, they were released but the passport was impounded, which caused grave hardship. That apart, before passing the order impounding passport, the respondent did not issue any notice or did not conduct enquiry with the petitioners regarding impounding of the passport. Hence, challenging the same, the present writ petition has been filed.

6. The first respondent filed a counter affidavit *inter alia* contending that since the passport obtained by all the petitioners lapsed in the year 2014 itself and consequently, impounding of passport have been automatically cancelled. The relevant paragraph No.8 of the counter affidavit reads as follows:

8. I respectfully submit that the first petitioner was married to the defacto complainant on 20.06.2004 and the first petition was working in World Bank even prior to the marriage. The passport is valid for 10 years and therefore, if the passport is not renewed then the passport is lapsed and cancelled. Even if it is taken that the first petitioner has submitted his passport in the year 2004 then the passport is valid until 2014 and would have lapsed at the end of 2014. In the meanwhile the petitioners even as per



their affidavit have become the citizen of United States of America. In such event the petitioners would have surrendered the Indian Passport to the Indian Embassy before obtaining the USA citizenship. Consequently, the impounding of passport would have been automatically cancelled. Therefore, the claim of the petitioner is ambiguous and the petitioners ought to clarify why they need to set aside the impugned order when the passport is automatically cancelled when they obtained USA citizenship.

7. In view of the submissions made in the counter affidavit that since passport lapsed, consequently, impounding of the passport also automatically cancelled as on today, the order impounding the passport is also lapsed. The learned Senior Counsel for the petitioner would submit that even though the order impounding the passport is lapsed, the entries made in the system at the time of impounding passport still is not erased and whenever the petitioners approaching the authorities they are facing problem in view of the entries found in the system regarding of their impounding of passport.

8. On 19.10.2016, this Court directed the learned counsel for the respondent to get instruction regarding further course of action in the case of passport expired. The learned counsel for the first respondent produced a letter of the Passport Officer, Tiruchirappalli dated 17.11.2015, informing that the impounding circular against the passport can be cancelled manually and the same may be intimated to the immigration authorities for the smooth travel of the applicant. But will not serve any purpose. Unless the entries available in the system erased, the applicant will face the consequences, as the entries are still available in the system.

9. Hence, in the above circumstances, the first respondent is directed to cancel the order of impounding the passport and also remove the entries made in the system regarding the impounding of the passport.

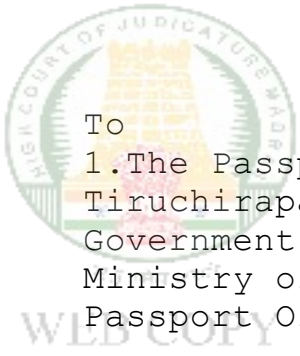
10. With the above direction, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected M.P.(MD) Nos. 2 and 3 of 2015 are closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar



To
1.The Passport Officer,
Tiruchirapalli,
Government of India,
Ministry of External Affairs,
Passport Office,Trichy.

2.The Chief Immigration Officer,
Immigration Department,
Ministry of External Affiars,
Government of India,
Shastri Bhavan,Haddows Road,
Chennai 600 006.

+1 cc to M/s.H.Velavadhas, Advocate in SR.No.72414
+1 cc to The Special Government Pleader in SR.No.72471
+11 cc's to M/s.P.Thilakkumar, Advocate in SR.No.71696&72011
+1 cc to M/s.S.Srimathy, Advocate in SR.No.71789

CM
CSL/KM/SAR-I/05.12.2016 :4P/17C

W.P (MD) No.22567 of 2015
23.11.2016