

CWP No. 14471 of 2014
Date of decision: 28.01.2016**Daljit Singh**

.....Petitioner

versus**Union of India and another**

.....Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain**Present:** Mr. Vikas Bali, Advocate
for the petitioner.Mr. Karminder Singh, Advocate and
Mr. Anil Chawla, Advocate
for respondents No. 1 and 2.**Rakesh Kumar Jain, J.(Oral)**

The petitioner has prayed for a writ in the nature of mandamus, directing respondent No. 2, to issue him a passport, applied vide File No:CHDF01139207 dated 12.11.2007, declined by the respondents on the ground that a criminal case bearing FIR No. 65, dated 30.08.1999, registered under Section 406 IPC at Police Station Dhillon, District Ludhiana is pending against him.

Counsel for the petitioner has submitted that the police, after investigation in the said FIR, has submitted an untraced report to the Illaqa Magistrate on 21.06.2000, therefore, there was no criminal proceedings pending against the petitioner before any criminal court in India.

On the other hand, counsel for the respondents has submitted that though the untraced report was submitted but it has not been accepted by the concerned court, therefore, FIR against the petitioner is still subsisting.

In this regard, counsel for the petitioner has relied upon a decision of this Court, rendered in *CWP No. 19551 of 2015 Sahib Jaskaran Singh vs. Union of India* and other decided on 13.10.2015.

I have heard both the learned counsel for the parties and perused the available record.

The refusal of the passport is regulated by Section 6 of the Passports Act, 1967 (for short, 'the Act') wherein Section 6(2)(f) provides as under:-

*“that proceedings in respect of an offence
alleged to have been committed by the applicant are
pending before a criminal court in India;”*

It is an admitted fact that so far there is no criminal proceedings pending against the petitioner in any criminal court of India except for the registration of the aforesaid FIR in which an untraced report was submitted but not accepted. It has been held by this Court in the case of *Sahib Jaskaran Singh (supra)* referring to an earlier decision of this Court in the case of *Daler Singh vs. Union of India and others* in *CWP No. 12143 of 2015* that the proceedings in respect of a criminal case can be said to be pending before a criminal court only when cognizance has been taken by the criminal court, on the challan, having been presented by the investigating agency. In the present case, however, neither any challan has been presented nor any criminal proceedings are pending against the petitioner, therefore, respondents cannot refuse to issue passport to the petitioner merely on the basis of the registration of FIR.

In view of the above, the present petition is hereby allowed and

direction is issued to respondent No. 2 to issue a passport to the petitioner on the File No:CHDF01139207 dated 12.11.2007, within 30 days from the date of passing of this Order.

28th January, 2016
Shivani Kaushik

[Rakesh Kumar Jain]
Judge