

JIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

Cont.P.No.725 of 2017

B.Ranganathan .. Petitioner

Vs.

Mr.P.K.Ashok Babu
Regional Passport Officer
Royala Towers, No.2 and 3, IV Floor
Old No.785, New No.158
Anna Salai, Chennai - 600 002. .. Respondent

Contempt Petition filed under section 11 of the Contempt of Courts Act, 1971, to punish the respondent for Contempt of the order of this Hon'ble Court dated 03.07.2015 made in W.P.No.25232 of 2014.

For Petitioner : Mr.P.Wilson, Senior Counsel
for M/s Richardson Wilson

For Respondent : Mr.Su.Srinivasan
Additional Government Pleader
and
Mr.R.Rajaratnam
Public Prosecutor
Assisted by Mr.V.Arul, APP
for State Government

ORDER

The writ petitioner, who is the petitioner in the contempt petition, alleging violation and deliberate non-compliance of the order dated 03.07.2015 in W.P.No.25232 of 2014, has come up with this contempt petition.

2. Facts leading to the present litigation have been narrated in detail in the order passed in W.P.No.25232 of 2014 and therefore, it is not necessary to state the facts again.

3. Mr. Wilson, learned Senior Counsel assisted by Mr. Richardson Wilson, the learned counsel appearing for the petitioner, has invited the attention of this Court to the typed-set of documents filed on behalf of the respondents. As per the communication sent by the respondent on 05.05.2016 in MAS/3460/09/2002, wherein reliance has been placed upon the report of the Commissioner of Police, Chennai, vide No.9261/PTE/2015 dated 02.02.2016, it is stated that in view of the said report, it was communicated that the criminal proceedings against the petitioner before the Judicial Magistrate, Ambattur and the X

Metropolitan Magistrate, Chennai are pending and in terms of the instructions in GSR 570(E), the petitioner has to obtain permission from the concerned trial Courts to travel abroad, in order to enable the respondent office to process the passport application of the petitioner. It is the submission of the learned counsel appearing for the petitioner, by drawing the attention of this Court to the order dated 03.07.2015 made in W.P.No.25232 of 2014, that in paragraph Nos. 15 and 16, it is observed that the first respondent merely went by the report of the second respondent in the writ petition, namely, the Commissioner of Police, Egmore, Chennai, and that the petitioner has deliberately suppressed the pendency of the criminal cases against him and the said stand, is unsustainable.

4. The learned Senior Counsel appearing for the petitioner, on instructions, would submit that in the event of renewal of the passport being granted, the petitioner will surrender it before the concerned Court as directed by this Court and he will strictly comply with any other directions issued and prays for appropriate orders.

5. Per contra, Mr.Su.Srinivasan, learned Assistant Solicitor General, drawn the attention of this Court to Section 6 of the Passports Act, 1967, and would submit that the refusal of passports and travel documents, can be denied under sub-section 2 (f) that “the proceedings in respect of an offence alleged to have been committed by the applicant” pending before the Criminal Court in India and sub-section 2 (g) , “that a warrant or summons for the appearance or a warrant for the arrest, of the applicant has been issued by a Court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such Court”. Admittedly, after the filing of the contempt in pursuant to the direction issued by this Court, the petitioner has received summons in the cases referred to in the order and he has also filed petitions for quashing the proceedings which are pending on the file of this Court and therefore, the rejection of his request for renewal of his passport is perfectly in order and prayed for closure of the contempt. The learned Assistant Solicitor General appearing for the respondent has also invited the attention of this Court to the notification issued by the Ministry of External Affairs in GSR 570(E) and also the reply affidavit filed on behalf of the first respondent.

6. This Court bestowed it's attention to the rival submissions of the learned counsel for the parties and also the materials placed before this Court.

7. This Court, in paragraph No.16 and 17 of the order dated 03.07.2015 in W.P.No.25232 of 2014, which is the subject matter, has recorded that the petitioner has not deliberately suppressed the pendency of the criminal cases against him and therefore, partly allowed the writ petition by setting aside the impugned order rejecting his request with a further direction directing the respondent to consider his application for re-issuance of the passport, on merits and in accordance with law, within a stipulated time.

8. This Court, despite pendency of the contempt petition, has also called upon the concerned Station House Officer as to the non service of summons on the petitioner and called for report from the Court of X Metropolitan Magistrate, Chennai as well as the Judicial Magistrate, Ambattur, and in some of the cases, the reports have also been received. On a perusal of the same, this Court has passed an order dated 09.06.2017 in this Contempt petition by taking note of the submission

made by the learned Senior Counsel appearing for the petitioner that as and when officials come for serving the summons, it will be received promptly and the petitioner will also co-operate with concerned Courts for expeditious hearing of the cases. Accordingly, summons have been served and the petitioner has also received the same and by way of working out his legal remedy, he has also filed Criminal Original Petitions in Crl.OP.Nos.11785 and 11759 of 2017 on the file of this Court for quashing and the said original petitions have been entertained and the petitioner has also obtained interim order, subsequent to which, his personal appearance is dispensed with and it is for the prosecuting agency to move the concerned Court to get the said Criminal Original Petitions finally disposed of.

9. The stand of the respondent is that in the light of Section 6 (2) (f), the rejection of the request for renewal of passport is perfectly in order. In the considered opinion of the Court, the very same respondent, on an earlier occasion, rejected the request for re-issuance of passport, vide communication dated 25.07.2014, by invoking Section 6(2) (f) & 12(1)(b) of the Passports Act. The said proceedings were quashed in W.P.No.25232 of 2014 and as such, the present stand of the respondent is unsustainable.

10. This Court is of the considered view that the request for renewal/ re-issuance of the passport sought for by the petitioner, questions positive consideration, subject to the fulfillment of the relevant Sections of the said Act.

11. In the result, the respondent is directed to renew/ re-issue the passport in the light of the notification of the Ministry of External Affairs order dated 25.09.1993 GSR 570(E), if the papers are otherwise in order and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order and the petitioner, upon receipt of the passport renewed/ re-issued, is directed to deposit the same to the Court of S.T.C.No. 660 of 2011 pending on the file of the Judicial Magistrate, Ambattur concerned in T3, Korattur Police Station, Chennai in Crime No.188 of 2011, forthwith.

12. The petitioner is also at liberty to move the concerned Court/s for return of the passport for travelling abroad and as and when the petitioner is filed, the concerned Court is directed to consider the same on merits and in accordance with law and pass appropriate orders, if the petition is otherwise in order.

13. Contempt petition is closed subject to the above observation .

18.08.2017

Speaking Order

Index : No

Internet : Yes

mrp/jer

To

1. The Judicial Magistrate,
Ambattur.

2. The X Metropolitan Magistrate,
Egmore, Chennai.

3. The Public Prosecutor,
High Court,
Madras.

4. The Commissioner of Police,
Chennai.

5. Mr.P.K.Ashok Babu
Regional Passport Officer
Royala Towers, No.2 and 3, IV Floor
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Anna Salai, Chennai - 600 002.



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M.SATHYANARAYANAN, J.,

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