

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 12.10.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.16383 of 2017

K.Chellammal

... Petitioner

Vs.

1. The Regional Passport Officer,
Municipal Water Tank Building,
W.B.Road,
Trichirappalli - 620 008.

2. State rep. by
The Inspector of Police,
Uppiliapuram Police Station,
Trichy District.

... Respondents

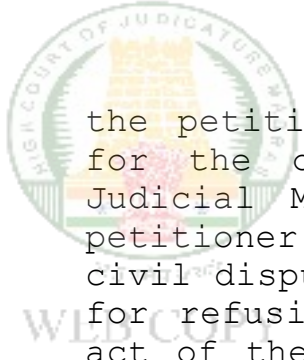
PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to issue the Passport to the petitioner alleging that the criminal case registered in Cr.No.333 of 2012 by the second Respondent Police on the basis of the Letter Ref. No.SCN/305044743/17 dated 01.02.2017 issued by the first Respondent.

For Petitioner : Mr.S.Sivakumar
For R.1 : Mr.Arjunarajan
For R.2 : Mr.J.Gunaseelan Muthiah,
Government Advocate

ORDER

This writ petition has been filed seeking a Writ of Mandamus, directing the first respondent to issue the Passport to the petitioner, which has been kept pending, on the ground that a criminal case has been registered in Cr.no.333 of 2012 by the second Respondent Police against the petitioner and on the basis of the Letter Ref. No.SCN/305044743/17 dated 01.02.2017 issued by the first Respondent.

2. It is the case of the petitioner that she had made an online application seeking passport on 11.02.2016 under Ref.No.TR 2009-13000910 and the same has been kept pending on the reasoning that a case in Crime No.333 of 2012 has been registered against



the petitioner and two others and a charge sheet was also filed for the offence under Section 294(b) IPC before the learned Judicial Magistrate, Thuraiyur. It is the further case of the petitioner that the above case has been registered on account of a civil dispute and mere pendency of a criminal case is not a ground for refusing to issue passport. Hence, aggrieved by the overall act of the respondents, the petitioner is before this Court with the above direction.

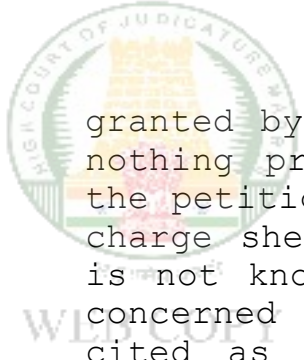
3. The learned Counsel appearing for the respondent has filed a detailed counter affidavit contending that while processing the petitioner's application, the pendency of criminal proceedings was reported by the police officials and the petitioner himself admitted the same. Therefore, as per section 6 (2)(f) of Indian Passports Act, 1967, the authorities had rejected his claim.

4. In reply to this stand taken by the respondent, the learned Counsel appearing for the petitioner placed reliance upon the order of this Court in the case of ***N.Chandrababu Vs. The Sub Inspector of Police in W.P.(MD)No.7056 of 2017***, wherein, this Court has held as follows:

"7. On a conspectus of the facts obtaining in this case, this Court is of the view that this is a fit case for which permission should be granted to the petitioner to go abroad. Under such circumstances, this Court permits the petitioner to depart from India and return on 30th May 2017. In view of the permission granted by this Court, the Passport authorities are directed to exempt the petitioner from the operation of the provisions of Clause (f) of sub-Section (2) of Section 6 of the Passports Act. The petitioner shall give an undertaking as contemplated by Clause (d) of the Notification dated 25.08.1993. The petitioner will be entitled to keep the passport with him, in view of the fact that this Court has granted stay of all further proceedings in C.C. No.21 of 2015 and it may not be necessary for the petitioner to come every time to this Court seeking permission to go abroad. Accordingly, this writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed."

5. Heard the learned Counsel for the parties.

6. A careful scrutiny of the order **dated 21.04.2017** passed in ***N.Chandrababu Vs. The Sub Inspector of Police in W.P.(MD)No.7056 of 2017*** would reveal that in the said case, this Court has clearly observed that though the concerned Trial Court had taken cognizance of the offence, pursuant to the subsequent stay



granted by this Court, which was in force at that point of time, nothing prevented the Passport authorities to issue Passport to the petitioner therein. But, in the present case on hand, though a charge sheet has been filed before the concerned Trial Court, it is not known as to whether any cognizance has been taken by the concerned Court and mere pendency of the criminal case cannot be cited as a reason for denial of issuance of Passport to the petitioner.

7. Hence, following the judgment of this Court (cited supra), this writ petition is disposed of, directing the 1st respondent to consider the application of the petitioner seeking passport under Reference No.SCN/305044743/17 dated 01.02.2017 and to pass appropriate orders, on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order, especially in the light of the order of this Court in **N.Chandrababu Vs. The Sub Inspector of Police in W.P.(MD) No.7056 of 2017**. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Regional Passport Officer,
Municipal Water Tank Building,
W.B.Road,
Trichirappalli - 620 008.

2. State rep. by
The Inspector of Police,
Uppilipuram Police Station,
Trichy District.

+ 2 ccs TO Mr.S.Sivakumar , Advocate in SR No. 82646
+1cc to The Special Government Pleader in SR.No.82801,82874

rm

AE/KK/SAR2/01.11.2017/3P/6C

W.P. (MD) No.16383 of 2017
12.10.2017