



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.19121 of 2017

Muthuraj

... Petitioner

Vs.

1. The Regional Passport Officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai-625 002.

2. The Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to issue Passport to the petitioner's application No.MD2060470661117 dated 09.08.2017 in the light of the judgment rendered by this Hon'ble Court.

For Petitioner	: Mr.P.Murugesan
For Respondent 1	: Mr.Jeyakumaran ACGSC
For R2	: Mr.T.S.Mohamed Mohideen
	Addl. Govt. Pleader

O R D E R

This writ petition has been filed, seeking a direction to the 1st respondent to issue Passport to the petitioner on the basis of his Application No.MD2060470661117 dated 09.08.2017.

2. The case of the petitioner is that he has been running a company in the name and style of M/s.Speed Team Wind Tech Pvt. Ltd., for installation and maintenance of wind mills etc., and he is required to attend meetings with his clients abroad. For the said purpose, he applied for passport and the same has been kept pending on the reasoning that an FIR in Crime No.263 of 2017 for the offence under Section 420 IPC has been registered against him and his company based on the allegations levelled by his rival company, by name M/s.Wind Care India (Pvt) Ltd. According to the



petitioner, no case was pending on the date of application for Passport, viz., 09.08.2017 and no summon from any Court of Law was received. The petitioner has also relied upon a judgment of the Hon'ble Division Bench of this Court in the case of **W. jaihar William vs. The State of Tamil Nadu [W.P. (MD) Nos.8343 to 8350 of 20140]** decided on 27.06.2014 in support of his submission that 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 Standing Counsel appearing for the 1st respondent has contended 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 1st 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, till now, neither even a charge sheet has been filed before the concerned Trial Court nor cognizance has been taken by any Court of Law and therefore, it may be presumed that the case is only at the FIR stage 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 No.MD2060470661117 dated 09.08.2017 of the petitioner seeking passport 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 bearing in mind the order passed by this Court in **N.Chandrababu Vs. The Sub Inspector of Police in W.P.(MD) No.7056 of 2017**. No costs.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Regional Passport Officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai-625 002.

2. The Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.

+1 cc to Mr.N.Shanmuga Selvam, Advocate in SR.No.82539

+1 cc to Mr.J.Jeyakumaran, Advocate in SR.No.82527

+1 cc to The Special Government Pleader in SR.No.81799

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AE/SKN RSK/SAR2/31.10.2017/3P/6C

W.P. (MD) No.19121 of 2017
12.10.2017