



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P (MD) No.4554 of 2017

and

W.M.P. (MD) Nos.3669 to 3671 of 2017

Antony Rajan Rajaiyan

..Petitioner

Vs

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

2.The Airport Foreigner Regional
Registration Officer (AFRRO),
Bureau of Immigration,
Immigration Wing,
Trivandrum International Airport,
Trivandrum,
Kerala State.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned communication of the 1st respondent dated 30.05.2016, which decided to impound the petitioner's Passport, in Passport No. N6644418, issued on 01.02.2016, under Section 10(3)(e), "Criminal Case is pending before the Court" of the Passport Act, 1967 and quash the same as illegal and consequently direct the 1st respondent to return back the petitioner's Passport, in Passport No.N6644418 issued on 01.02.2016, which was seized by the 2nd respondent on 04.03.2017 at Trivandrum International Airport, within a time bound manner as fixed by this Hon'ble Court, to the petitioner.

For Petitioner : Mr.C.Kishore

For Respondents : Mr.P.Paulpandi

**ORDER**

The Petitioner has approached this Court seeking quashment of the impugned communication of the 1st respondent dated 30.05.2016, which decided to impound the petitioner's Passport, in Passport No. N6644418, issued on 01.02.2016, under Section 10(3)(e), "Criminal Case is pending before the Court" of the Passport Act, 1967 and consequently to direct the 1st respondent to return back the petitioner's Passport, in Passport No. N6644418 issued on 01.02.2016, which was seized by the 2nd respondent on 04.03.2017 at Trivandrum International Airport, within a time frame to the petitioner.

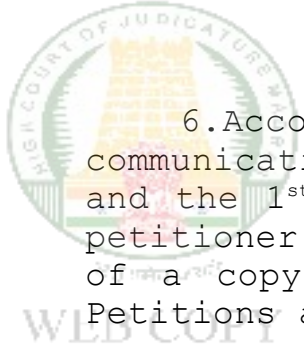
2. According to the petitioner, no charge sheet has been filed in respect of the Crime No. 670/2015, on the file of the Inspector of Police, Karungal Police Station, which was the basis for impounding the passport of the petitioner. Even assuming that charge sheet has been filed, the same has not been taken cognizance by the Magistrate concerned under the provisions of the Criminal Procedure Code.

3. The first respondent has filed a counter stating that charge sheet has been filed in Crime No. 670 of 2015. When the learned counsel appearing for the respondents was confronted with the specific question that when the charge sheet has been filed and when the same was taken cognizance by the concerned Magistrate, he is unable to answer to the specific query put by this Court.

4. In support of his contention, the learned counsel appearing for the petitioner relied on the decision of this Court in **W. Jaihar William v. State of Tamil Nadu** reported in (2014) 8 MLJ 61. In the said decision, this Court has clearly held in paragraph 10, which is extracted below:

"10. ... Therefore, it is clear that unless the Judicial Magistrate takes cognizance of the offence, on filing of charge-sheet on completion of investigation against the applicant, it cannot be said that the proceedings are pending before the Criminal Court. Therefore, in my considered opinion, the 3rd respondent cannot mechanically refuse to issue passport to the petitioners, merely for the reasons that the FIRs are pending against the petitioners. On receipt of the application for passport, the 3rd respondent shall consider the same and pass appropriate orders."

5. In view of the above legal position, the impugned order passed by the first respondent impounding the passport of the petitioner is not sustainable in law.



6. Accordingly, the Writ Petition is Allowed and the impugned communication of the 1st respondent dated 30.05.2016 is set aside and the 1st respondent is directed to restore the passport to the petitioner within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Regional Passport Officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.
2. The Airport Foreigner Regional
Registration Officer (AFRRO),
Bureau of Immigration,
Immigration Wing,
Trivandrum International Airport,
Trivandrum,
Kerala State.

- + 1 CC TO Mr.P.PAULPANDI, ADVOCATE IN SR No. 52649
- + 1 CC TO Mr.C.Kishore, ADVOCATE IN SR No. 53055

SJ
TE/KP/SAR-IV : 27/04/2017 : 3P/5C

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