



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2017

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WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.5765 of 2017

K.Sathasivam

... Petitioner

Vs.

1. The Regional Passport Officer,
O/o.The Regional Passport Officer,
Bharathi Ula Street, Race Course Road,
K.Pudur, Madurai-625 002.

2. The Inspector of Police,
Vedasandur Police Station,
Dindigul District.

... Respondents

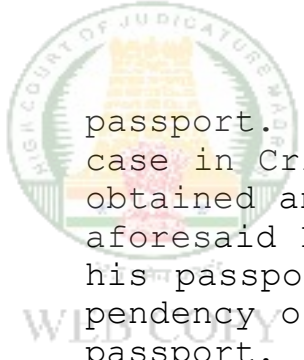
PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to release the petitioner's passport, bearing Passport No.H5743890 forthwith so as to enable the petitioner to go abroad.

For Petitioner : Mr.D.Sadiq Raja
For R1 : Mr.R.Nandakumar
For R2 : Mr.M.Alagathevan
Spl. Govt. Pleader

O R D E R

This writ petition has been filed, seeking a direction to the 1st respondent to release the petitioner's passport, bearing Passport No.H5743890 forthwith so as to enable the petitioner to go abroad.

2. It is the case of the petitioner that on account of pendency of two criminal cases in C.C.No.22 of 2009 on the file of the learned Judicial Magistrate, Vedasandur and C.C.No.62 of 2011 on the file of the learned Sub Court, Vedasandur, the 1st respondent issued a notice to the petitioner on 09.10.2009 for surrendering his passport and he was further asked to offer his explanation with regard to impounding of his passport and taking penal action against him. Subsequently, the petitioner was acquitted from the above said two criminal cases, which made him to approach the 1st respondent with a request to return back his



passport. However, the 2nd respondent had registered yet another case in Crime No.281 of 2014 against him, in which, he has already obtained anticipatory bail from this Court. Due to pendency of the aforesaid FIR, the 1st respondent has once again refused to release his passport. It is the further case of the petitioner 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.

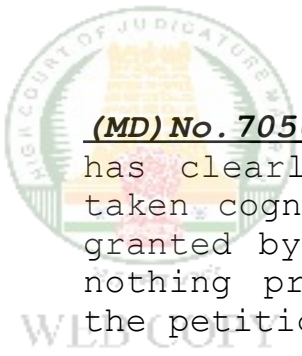
3. The learned Counsel appearing for the 1st respondent has filed a detailed counter affidavit contending that on a reference to the Superintendent of Police, it was disclosed that there were criminal cases against him and later, the petitioner produced copies of judgments in proof of his acquittal from all the charges. Hence, the matter was once again referred to the Superintendent of Police, Dindigul for re-verification and on receipt of the verification report, the restoration of passport facilities would be processed in accordance with the Indian Passports Act, 1967.

4. 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*** in support of his submission, 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.

<https://hcservices.ecourts.gov.in/hcservices/> 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.

7. In the present case on hand, though it was reported that two cases were registered against the petitioner, after a full fledged trial, he was acquitted from the cases by the concerned Trial Courts and insofar as the subsequent case registered in Crime No.281 of 2014 on the file of the 2nd respondent is concerned, it is not known as to whether any cognizance has been taken by the concerned Court. Therefore, mere pendency of the criminal case cannot be cited as a reason for denial of issuance of Passport to the petitioner.

8. Hence, following the judgment of this Court (cited supra), this writ petition is disposed of, directing the 1st respondent to consider the release of the petitioner's passport, bearing Passport No.H5743890 and 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(AE)

/True Copy/

Sub Assistant Registrar

To:

1. The Regional Passport Officer,
Bharathi Ula Street, Race Course Road,
K.Pudur, Madurai-625 002.
2. The Inspector of Police,
Vedasandur Police Station,
Dindigul District.

+ 1 cc TO Mr.D.Sadiq Raja , Advocate in SR No. 83158
+1cc to The Special Government Pleader in SR.No.83339

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AE/SV MMS/SAR2/07.11.2017/3P/5C

W.P. (MD) No. 5765 of 2017
23.10.2017