



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

WEB COPY

W.P.(MD)No.7962 of 2017

S.Jeyapaul

: Petitioner

-Vs-

1.The Inspector of Police,
All Women Police Station,
Melur, Madurai District.

2.The Superintendent of Police,
Madurai District.

3.The Regional Passport Officer,
Kotchadai,
Madurai District.

4.The Immigration Officer,
Madurai Airport,
Madurai.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 3 and 4 to return the passport of the petitioner bearing No.L5474071 and permit the petitioner to allow and travel to Srilanka for business purpose from 01.05.2017 to 30.10.2017.

For Petitioner : Mr.S.Mahalingam

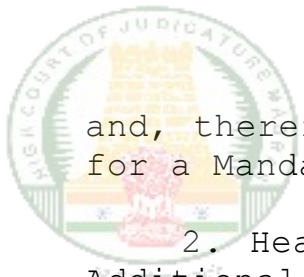
For Respondents 1&2 : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader

For Respondents 3&4 : Mr.R.Arjunarajan

O R D E R

It is seen that the petitioner is facing prosecution in C.C.No.110 of 2015 before the learned Judicial Magistrate, Melur, for offences under Sections 294(b), 498(A), 494, 506(i) of the Indian Penal Code and Section 4 of Tamil Nadu Prohibition of Women Harassment Act. While so, A-2, A-9, A-10 and A-11 in C.C.No.110 of 2015 have filed Crl.O.P.(MD)No.18427 of 2016 challenging the prosecution in C.C.No.110 of 2015 and this Court, by order dated 26.09.2016, has stayed the trial proceedings. This petitioner is

<https://hcservices.a.com/pgs/lin/hcservices/> Crl.O.P.(MD)No.18427 of 2016. Since a criminal case is pending against the petitioner, the passport of the petitioner is with the Regional Passport Officer, Kotchadai, Madurai District



and, therefore, the petitioner has filed the present Writ Petition for a Mandamus with the above prayer.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the first and second respondents and the learned counsel for the third and fourth respondents.

3. In N.Chandrababu vs. Sub-Inspector of Police [W.P.(MD) No.7056 of 2017], this Court, by order dated 21.04.2017, has laid down the law relating to issuance of passport to a person facing criminal prosecution. It may be relevant to extract paragraph No.5 of the order, which reads thus:

"5. From a reading of the aforesaid Notification, in the opinion of this Court, the expression 'concerned Court' will mean the Court before whom the person is facing the prosecution. In this case, had there not been a quash petition pending, the 'concerned Court' would be the learned Judicial Magistrate No.V, Trichy before whom the petitioner is facing trial in C.C.No.21 of 2015. However, this Court, in exercise of its power under Section 482 of Cr.P.C., has admitted Crl.O.P.(MD)No.3533 of 2017 and has granted stay of all further proceedings in C.C.No.21 of 2015 on the file of Judicial Magistrate No.V, Trichy. Under such circumstances, the expression 'concerned Court' in the context of the present case will mean the High Court and not the Judicial Magistrate No.V, Trichy."

4. From the above, it is clear that the expression 'concerned Court' employed in the Notification dated 25.08.1993 will be the Court before whom the criminal prosecution is pending as against the claimant. In this case, though this Court has stayed the trial in Crl.O.P.(MD)No.18427 of 2016, this petitioner is not a party in the quash application and that he has not challenged the prosecution as against him. Under such circumstances, the expression 'concerned Court' in the present case will be the 'Judicial Magistrate, Melur', before whom, the petitioner is facing prosecution in C.C.No.110 of 2015. Hence, this Writ Petition is closed with liberty to the petitioner to approach the learned Judicial Magistrate, Melur, to file an application for return of passport, based on the aforesaid ruling of this Court and on such application being filed, the learned Judicial Magistrate, Melur, shall consider the same on merits and pass orders in accordance with law. No costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/



To

1.The Inspector of Police,
All Women Police Station,
Melur, Madurai District.

2.The Superintendent of Police,
Madurai District.

3.The Regional Passport Officer,
Kotchadai,
Madurai District.

4.The Immigration Officer,
Madurai Airport,
Madurai.

Copy to:

The Judicial Magistrate,
Melur.

+1CC to M/S.S.Mahalingam, Advocate, SR.No. 58991
+ 1 cc TO Mr.R.Arjunarajan , Advocate in SR No. 59461
+1cc to the Special Government Pleader in SR.No.59211

Order made in
W.P.(MD)No.7962 of 2017
Dated: 07.06.2017

SML

AM/SV MMS/SAR 4/08.06.2017/3P/9C