

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.15912 of 2007

ORDER:

Heard counsel for the petitioner as well as the respondent.

The present writ petition is filed by the petitioner seeking mandamus to declare the action of the respondent in impounding his passport without giving any notice as illegal, arbitrary and violative of principles of natural justice.

The case of the petitioner is that his marriage was performed with one P. Bharathi on 20.07.2002 in U.S.A. It was a love marriage without the consent of the parents of both the parties. Sometime after marriage, disputes arose between them and they came to India. The wife of the petitioner gave a complaint against the petitioner vide Crime No.5 of 2003, which was later on compromised. Thereafter, both of them again went to U.S.A. and the wife of the petitioner once again gave a report at III Town Police Station, Visakhapatnam, and the same was registered as Crime No.197 of 2007 under Section 498-A read with Section 34 IPC and Sections 3 and 4 of Dowry Prohibition Act against the petitioner and other family members. In fact, the petitioner's parents were arrested and subsequently released on bail. After completing the investigation, charge sheet was also filed. The investigating officer filed a memo, dated 12.03.2007, before the concerned Magistrate requesting to address a letter to the respondent to revoke the petitioner's passport under Section 10(3)(e) and (h) of the Passport Act, 1967 (for short, "the Act").

Under Section 10(3)(e) of the Act, the passport authority may impound or cause to be impounded or revoke a passport or travel document, if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal Court in India. Section 10(3)(h) of the Act enables the respondent to pass appropriate orders being satisfied that the warrant or summons have been issued by a Court under any law for the time being in force, the power, which is vested under the provisions of the Act, has to be exercised by the passport authority within the parameters laid down by the law.

Learned counsel for the petitioner contends that the petitioner's passport cannot be impounded without issuing any notice.

Per contra, the counter affidavit filed on behalf of the respondent authorities would reveal that the office of the respondent received copy of the order issued by the I Additional Chief Metropolitan Magistrate, Visakhapatnam, directing the respondent office to revoke the passport bearing No.E6141322, dated 20.08.2003, issued to the petitioner. In pursuance of the said orders, the respondent has issued a show cause notice to the petitioner on 16.03.2007 calling for an explanation and since no explanation had been furnished by the petitioner, the respondent had revoked his passport after duly giving sufficient time of 15 days. Therefore, it cannot be said that the respondent has not followed the procedure as contemplated under the provisions of the Act for revoking the passport.

Be that as it may, though the petitioner has raised a contention that the discretion of the respondent cannot be controlled by any authority much less the directions issued by the Court for either impounding or cancelling the passport since no scope is left to the authority, but, in the case on hand, in spite of the orders passed by the concerned Court, the respondent has issued show cause notice calling for an explanation. Since no explanation was forthcoming from the petitioner, it is said that the passport has been impounded. In these circumstances, it cannot be said that the respondent has exercised his power either arbitrarily or illegally. On the other hand, there is no illegality or irregularity in the procedure followed by the respondent while impounding the passport of the petitioner. Therefore, there are no merits in the writ petition.

The writ petition is accordingly dismissed. However, liberty is given to the petitioner to submit an application for issuance of fresh passport, if he chooses to exercise his option. Interim order, if any, shall stand vacated. No costs.

Miscellaneous petitions, if any, shall also stand dismissed.

JUSTICE P. KESHA RAO

Date: 27.11.2017.
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