

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.22788 OF 2009

ORDER:

The petitioner seeks writ of Mandamus declaring the action of the respondent No.2 in impounding the passport of the petitioner bearing No.B-0397677, vide intimation bearing No.30(40)Pol/2008, dated 09.09.2009, as being arbitrary, illegal and violative of the principles of natural justice and also violative of Articles 14 and 21 of the Constitution of India and consequently to pass order which will deem fit in the circumstances of the case.

2. The petitioner's case, in brief, is that petitioner is a Non Resident Indian (NRI) and married to one A.Vijaya Bhaskara Reddy and they are residing in Kansas City, U.S.A. Petitioner's brother Chirra Brahma Reddy is also a NRI. He was married in 2007 with one Aruna, D/o. Venkat Reddy Tammineni and they were settled at U.S.A. Due to matrimonial disputes between Ch.Brahma Reddy and his wife, she filed a complaint before Kanigiri Police Station, Prakasam District, registered as Crime No.122 of 2007 for the offences under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act. The writ petitioner was arrayed as accused No.4 in the said crime. Charge sheet was filed, which was taken cognizance by the learned Judicial First Class Magistrate, Kanigiri, Prakasam District and registered as C.C.No.227 of 2007. The petitioner was arrested while she was in India and was released on regular bail. Later, she left for U.S.A. While so, 2nd respondent

issued show-cause notice dated 05.01.2009 calling upon the petitioner to explain as to why the petitioner's passport bearing No.B-0397677 should not be impounded under Section 10(3)(e) of the Passport Act, 1967 on the ground that the non-bailable warrant (NBW) was pending against her. As the notice was served to the address of the GPA holder of the petitioner, he informed the postman that permanent residence of the petitioner is in U.S.A. and notice need to be sent to the said address. Subsequently, there was no communication. Again another notice was issued to the same address in July/August, 2009 calling upon the petitioner to explain within 15 days as to why her passport bearing No.B-0397677 should not be impounded as NBW was pending. Before the said notice could be replied by the petitioner, the 2nd respondent issued the impugned intimation dated 09.09.2009 informing that passport of the petitioner was impounded by Circular No.26(5)/Pol/2009. The said order is arbitrary and illegal as no opportunity was given to the petitioner to explain the reason why the passport should not be impounded.

Hence, the writ petition.

3. Learned counsel for respondents present and also filed counter opposing the writ petition.

4. When the matter came up for hearing, learned counsel for petitioner, while producing copy of the common order in CrI.P.Nos.7321 of 2007, 6262 of 2009 and 766 of 2010, dated 20.01.2011 of this Court, would submit as per the order in

CrI.P.No.7321 of 2007, this Court was pleased to quash the proceedings against the present writ petitioner, who is A4 in C.C.No.227 of 2007 (Crime No.122 of 2007 of Kanigiri Police Station) and therefore, no criminal case is pending against her. Learned counsel would further submit that this Court in W.P.M.P.No.29586 of 2009, dated 23.10.2009, passed interim order suspending the order of the 2nd respondent in impounding the passport of the petitioner bearing No.B-0397677, vide intimation bearing No.30(40)Pol/2008, dated 09.09.2009, pending disposal of the writ petition. Learned counsel would also submit that subsequent to the aforesaid interim order, the authorities have released the passport of the petitioner. In view of the same and as the criminal proceedings against the petitioner were already quashed, no further order in the writ petition need to be passed.

5. Recording the above submission of the learned counsel for petitioner, this writ petition is closed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

28.09.2018
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U.DURGA PRASAD RAO, J