

**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

**WRIT PETITION No.44047 of 2018**

**ORDER:**

Heard learned counsel for the petitioner and Smt.Siva Kumari, learned Additional Standing Counsel for Union of India, apart from perusing the entire material available on record.

In the present Writ Petition, challenge is to the communication sent by the Regional Passport Officer, Hyderabad, dated 28.11.2018, asking the petitioner herein to surrender the passport bearing No.M4370157, dated 28.05.2015, within fifteen days from the date of receipt of the same pending C.C.No.113 of 2015. An application was filed, under Section 10(3) of the A.P.Passports Act, 1967, for impounding all the passports of as many as 5 accused, including the petitioner herein, who is shown as accused No.1. In the said Criminal Case, the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam, in Crl.M.P.No.891 of 2015, passed an order and the operative portion of the said order, at paragraph Nos.4 and 5, reads as under:

*“Therefore, she approached this Court by way of this complaint as the police people failed to take any necessary action. It is true that all the accused have been now at USA and it is very difficult to secure their presence. It is also to be noted that this Court has no jurisdiction to impound the passport and it is only the passport authorities who got power to impound the same or any travel document under Section 10(3) of the Passports Act. But, however, this Court can address a letter to the passport authorities by giving*

*reference as to the pendency of the Court proceedings against the accused”.*

Enclosing a copy of the said order, the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam addressed a letter, dated 10.04.2015, to the Regional Passport Officer, Hyderabad for taking necessary action as per law pertaining to the passports of the accused including the petitioner herein (accused No.1).

Thereafter, a notice was issued by the Regional Passport Officer, Hyderabad to furnish the explanation in respect of the cases registered against the petitioner herein. On 11.06.2015 a mail was sent to the Regional Passport Office by the petitioner herein and the same reads as under:

*“We Ghattamaneni Siddhartha Prasanna Chandra and Ghattamaneni Jhansi Lakshmi residents of 917 Saddehom Ct Danville, California-94506, USA holding passport number.F5204249 and K7325152 respectively have been informed by our old neighbors of the receipt of 2 letters from your office dated 18-5-2015 on 29.5-2015 requesting to furnish explanation for the case registered against us.*

*These letters were sent to Plot No:25, House No.02, Krupa Deep Row Houses: MJ colony Moulali, Secunderabad-500062. We had resided at this address 7-8 years ago. We are not in receipt of any letter(s) from your office at our current address in USA-917 Saddlehom Ct, Danville, CA -94506, USA.*

*We are writing this letter is to inform your office that we have forwarded the same letters to our Advocates at Durgam's Law Chambers, Visakhapatnam and our advocates have informed us today that their office has responded to your letters are on 8-6-2015 with the Legal Intimation and all the*

information pertaining to the cases mentioned in your letters.

We would like to bring to your notice that we do not reside at the address: Plot No 25, House No: 02: Krup Deep Row Houses, MJ colony; Moulali: Secunderabad-500062 and for any further queries or correspondence we request you to send those to our advocate's office listed below:

Durgam's Law Chamber  
DVVR Pratap & R Saraoa  
Door No: 38-40-78,  
Marripalem,  
Visakhapatnam 500 018.  
OfficePhone:08912730064,  
Cell:9848448466  
Email: durgampratap@gmail.com

We are writing this email to keep you informed that we have couriered a letter to your office (attached is a scanned of the same letter for your reference) address listed below through FedEx (Tracking# 803516885016)".

Subsequently, by way a reminder bearing No.30 (161) POL/2015, dated 22.10.2018, the Regional Passport Officer, Hyderabad directed the petitioner herein to furnish explanation, for the cases registered against him, within fifteen days. In response to the same, petitioner herein sent an explanation/reply, dated 29.10.2018, to the Regional Passport Officer, Hyderabad and the said explanation reads as under:

"In the letter I had received, there is a mention of a previous show cause notice issued on 18-5-2015 but no response was received from me. I respectfully submit that (Ghatamaneni Siddhartha Prasanna Chandra) had responded to the said show cause notice via a signed letter mailed through FedEx courier (Tracking # 803516885016 ) on 8.6.2015 to the above-mentioned address and also via electronic communication (email) rpohyderabad@mea.gov.in on 11-6-2015. Please see attached copy of the email and

*signed letter. This is also to bring to your notice my Advocates at Durgam's law Chambers, Visakhapatnam had responded to your letters on 8-6-2015 with the Legal intimation and all the information pertaining to the cases mentioned in your letters.*

*In the said letter dated 22-10-2018 to The Consular General of India, San Francisco, it has been stated that Court order to impound my passport was issued by Hon'ble Court of the Addl.Chief Metropolitan Magistrate at Visakhapatnam, in this matter I would like to bring to your notice that there is no such court order granted by the Hon'ble Court. We are not aware of such an order in any of the matters pending before the Hon'ble Court of the Addlitional Chief Metropolitan Magistrate at Visakhapatnam.*

*The marriage between myself "Ghattamaneni Siddhartha Prasanna Chandra" and the said Ms.Yarlagadda Vishnu Priya being represented by Mr. Bevara Satyanarayana was dissolved by the Hon'ble Superior Court of California in USA on 17-5-2013. Several legal issues in between myself and Ms.Yarlagadda Vishnu Priya were settled by the USA Courts. By suppressing all the said aspects, the said Ms Yarlagadda Vishnu Priya gave false complaint before III Town PS against me and my family members and the said SHO of Ill Town PS had registered FIR No.442/2012 on 1-8-2012 against myself and my family members, there after he filed charge sheet before the Hon'ble l Addl CMM at VSKP, for which we had submitted our objections before the concerned SHO and in turn the concerned SHO again re-started further enquiry and found that the de-facto complainant gave false complaint by suppressing her dissolution of marriage with me. In turn the SHO of III Town PS submitted his final report without registering any calendar case (CC) against me and referred the said complaint of the de-facto complainant as mistake of fact, as such the earlier charge sheet of Ill Town PS was closed and the said closing of the FIR and charge sheet was intimated to her by serving notice to her on 16-9-2014.*

**C.C.113/2015:** In this matter, The Hon'ble High Court of Andhra Pradesh dispensed with my presence before the Hon'ble Court of the Addl. Chief Metropolitan Magistrate at Visakhapatnam in C.C.113/2015 and this said order was not challenged by Ms.Yarlagadda Vishnu Priya. As such there is no question of impounding my passport before the Hon'ble Court of the Addl. Chief Metropolitan Magistrate at Visakhapatnam in C.C.113/2015.

**OP.1076/2012:** In this matter, The Hon'ble High Court of Andhra Pradesh has stayed all further proceedings in OP.1076/2012 on 5-9-2014 pending on the file of 1V ADDL DISTRICT AND SESSIONS CUM FAMILY JUDGE, at Visakhapatnam.

**OP.1078/2012:** In this matter, The Hon'ble High Court of Andhra Pradesh has stayed all further proceedings in OP.1078/2012 on 5-9-2014 pending on the file of IV ADDL. DISTRICT AND SESSIONS CUM FAMILY JUDGE, at Visakhapatnam.

**OP.943/2013:** In this matter, I am participating in this case through a Special Power of Attorney.

For any further queries or correspondence, I request you to send those to the address listed below:

917 Saddlehorn CT,  
Danville, CA-94506, USA  
Email:sidhu.ghattamaneni@gmail.com”.

Now, by way of the impugned communication, the Regional Passport Officer directed the petitioner herein to surrender the passport. The legal sustainability of the said communication is under challenge in the present Writ Petition.

According to the learned counsel for the petitioner, the impugned communication is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India.

On the other hand, it is submitted by the learned Additional Standing Counsel for Union of India that, only after affording reasonable opportunity to the petitioner herein, the Regional Passport Officer sent the impugned communication and there is no illegality nor there exists any procedural infirmity in the impugned action and, in the absence of the same, the questioned action is not amenable for any judicial review under Article 226 of the Constitution of India.

The material available on record discloses, in clear and vivid terms, that, in response to the reminder, dated 22.10.2018, petitioner herein submitted an elaborate explanation/reply, dated 29.10.2018. A reading of the impugned communication shows that, except referring to the reply, dated 29.10.2018, in the impugned communication, the Regional Passport Officer-second respondent herein did not make any endeavour to consider the contents of the said explanation/reply for arriving at the conclusion. Having called for the explanation/reply and having acknowledged the same, there is absolutely no justification on the part of the second respondent herein in completely ignoring the contents of the same. The said exercise, undertaken by the second respondent, in the considered opinion of this Court, cannot be sustained in the eye of law.

This issue, in the definite opinion of this Court, requires re-consideration of the second respondent, after taking into

consideration the explanation offered by the petitioner herein on 29.10.2018.

For the aforesaid reasons, Writ Petition is allowed, setting aside the impugned communication, dated 28.11.2018, and the matter is remitted to the second respondent for consideration of the issue and for passing appropriate orders, strictly in accordance with law, after taking into consideration the contents of the explanation/reply, dated 29.10.2018, submitted by the petitioner herein. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, shall stand closed.

12<sup>th</sup> December, 2018  
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**A.V. SESA SAI, J**

