

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.529 of 2018
Date of Decision: 16.07.2018

Balbir Singh Bajwa

..... Petitioner

Vs.

Union of India and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.A.P.S. Rehan, Advocate,
for the petitioner.

Mr.P.S. Sidhu, Advocate,
for respondents No.1 and 2.

Ms.Lavanya Paul, AAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing the order of the Regional Passport Officer, Jalandhar by which he has been informed that his file for seeking re-issuance of passport has been closed.

In brief, the petitioner was having passport No.G6119235 valid from 12.12.2007 to 11.12.2017. It is averred that he had visited Thailand in August/September 2017 with the aforesaid passport which was lost on 22.8.2017. Information in this regard was given to the local police in Thailand. The Indian Embassy at Bangkok (Thailand) cancelled the aforesaid passport and issued him an Emergency Certificate bearing No.X221019 dated 1.9.2017 to visit India which was valid from 1.9.2017

to 30.11.2017. Thereafter, the petitioner made an application on 26.9.2017 for the re-issuance of passport. The application form/file bearing No.JAL071521333417 has been rejected by respondent No.2 on the ground that the local police of P.S. Ghuman, District Batala has not sent a favourable police verification report in view of the registration of two cases against the petitioner vide FIR No.64 dated 28.6.2013 under Sections 420, 467, 468, 471 of IPC registered at P.S. Mehta, District Amritsar and FIR No.67 dated 20.10.2011 under Sections 420 & 34 of the IPC registered at Police Station Tariska, District Amritsar (Rural).

Learned counsel for the petitioner has submitted that the investigation in both the FIRs has already been completed by the Investigating Officers in which no case is found to have been made out and thus cancellation reports in both the FIRs have already been submitted to the concerned Courts. It is submitted that once it has been found by the police that both the FIRs against the petitioner have been falsely registered and cancellation reports have been submitted then the verification report should have been in his favour. In support of this submission, he has referred to a decision of this Court rendered in the case of ***"Jatinder Singh @ Jodha Vs. The Union of India and another"*** 2016 (4) PLR 317 contending that in the said case though the name of the petitioner was kept in Column No.2 of the challan but an application under Section 319 of the Cr.P.C. was filed against him for his summoning which was not decided. It is further submitted that this Court had held that the police authority should have issued no objection and passport authority should have issued the passport but it was clarified that the petitioner would not be permitted

to travel abroad until and unless he obtains permission of the Court where criminal case is pending.

In the reply filed by the respondents No.1 & 2, it is averred that Section 6(2)(f) of the Passport Act, 1967 [for short 'the Act'] clearly prohibits issue of a passport to any person against whom proceedings are pending in a criminal Court.

Respondents No.3 & 4, in their reply, have admitted that the cancellation report in the aforesaid two FIRs have been submitted because it has been found that the petitioner has been falsely implicated but the said cancellation reports have not been accepted by the competent authority so far.

I have heard learned counsel for the parties and perused the record. Section 6(2) of the Act says that the passport authority can refuse to issue a passport and Section 6(2)(f) of the Act provides the ground to refuse issuance of passport in case where proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India.

In the present case, however, no criminal case is pending against the petitioner before any competent criminal Court rather the police has submitted a cancellation report after investigating the matter that the petitioner has been falsely implicated. Therefore, respondents No.1 & 2 cannot apply Section 6(2)(f) of the Act against the petitioner.

In this regard, the judgment relied upon by the petitioner in the case of *Jatinder Singh @ Jodha (Supra)* would support his case.

Consequently, I am of the considered opinion that the petitioner deserves to be issued a passport but with a rider that for the

purpose of traveling abroad he would seek permission of the Court where cancellation report is pending.

With these observations, the present petition is hereby allowed.

16.07.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*
Whether Reportable : *Yes/No*