

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8372 of 2018

M.Gunasekaran

... Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office,
Royala Towers No.2 & 3,
IV Floor, Old No.785, New No.158,
Anna Salai, Chennai - 600 002.

2.State Rep. by its
Inspector of Police,
Sankarapuram,
Villupuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to release the Passport to the petitioner bearing No.M4784509 which is valid up to 18.12.2024.

For Petitioner : Mr.N.Stalin

For Respondents: Mr.A.K.Manoj Kumar,
Central Govt. Standing Counsel for R1
Mr.I.Sathish,
Additional Government Pleader for R2

O R D E R

The petitioner seeks for a Mandamus directing the 1st respondent to release the Passport of the petitioner bearing No.M4784509.

2. It is seen that the petitioner's Passport was impounded under Section 10(3) (e) of the Passports Act, 1967 on the reason that a criminal case is pending against the petitioner before the Court. It is further seen that a Criminal Case in PRC.No.51 of 2003 is pending before the Judicial Magistrate No.1, Sankarapuram, Villupuram District against the petitioner and other accused persons. Now, the petitioner seeks for return of the passport impounded already.

3. The learned counsel for the petitioner sought to rely on a notification dated 25.08.1993 issued by the Ministry of External Affairs, Government of India which exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a Criminal Court from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act. The said notification reads as follows:

"MINISTRY OF EXTERNAL AFFAIRS
NOTIFICATION
New Delhi, the 25th August 1993

G.S.R. 570(E). - In exercise of the powers conferred by clause(a) of Section 22 of the Passports Act 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No.G.S.R.298(E), dated the 14th April 1976, the Central Government being of the opinion that it is necessary in public interest to do, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a Criminal Court in India and who produce orders from the Court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

(a) The passport to be issued to every such citizen shall be issued -

(i) for the period specified in order of the Court referred to above, if the Court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) if such order gives permission to travel abroad for a period exceeding one year and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a) (ii)

and (a) (iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the Court; and provided further that, in the meantime, the order of the Court is not cancelled or modified.

(c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh Court order specifying a further period of validity of the passport or specifying a period of travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the Court concerned, appear before it at any time during the continuance in force of the passport so issued."

4. Perusal of the above said notification would show that such exemption is granted to such of those persons, who produce order from the Court concerned permitting them to depart from India. Therefore, it is for the petitioner to approach concerned Criminal Court and file appropriate application seeking such permission. Only when the Criminal Court grants such permission, the petitioner is entitled to seek for return of the impounded passport. In this case, the petitioner has straight away approached this Court and filed the present writ petition.

5. This Court is not in a position to understand as to how the petitioner has approached this Court and filed the present writ petition without approaching the Criminal Court, where the matter is pending so as to consider his request and pass appropriate orders on merits and in accordance with law, considering the gravity of the offence alleged to have been committed. Therefore, the present Writ Petition is disposed of, by granting liberty to the petitioner to approach the concerned Criminal Court and file appropriate application in a manner known to law. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

gsi/vri

To

1.The Regional Passport Officer,
Regional Passport Office,
Royala Towers No.2 & 3,
IV Floor, Old No.785, New No.158,
Anna Salai, Chennai - 600 002.

2.The Inspector of Police,
Sankarapuram,
Villupuram District.

+lcc to Mr.N.Stalin, Advocate, S.R.No.24823

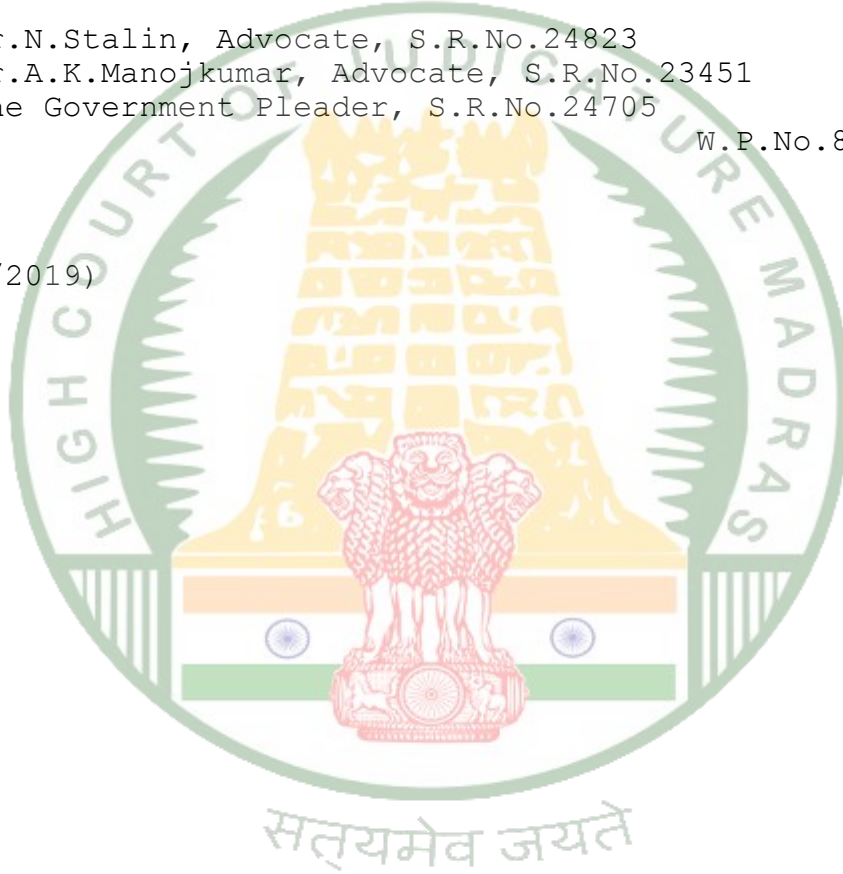
+lcc to Mr.A.K.Manojkumar, Advocate, S.R.No.23451

+lcc to the Government Pleader, S.R.No.24705

W.P.No.8372 of 2018

SSV(CO)

RRS (15/04/2019)



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