



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) No.14344 of 2019
and
W.M.P. (MD) No.10767 of 2019

Mohamed Ismail

... Petitioner

Vs.

1.The Passport Officer,
Regional passport officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai 625 002.

2.The Superintendent of Police,
O/o the Superintendent of Police,
Dindigul District.

3.The Inspector of Police,
Bathlagundu Police Station,
Dindigul District.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents No.1 to issue passport to the petitioner in file No. MD01C5057785118.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.V.Kathirvelu, ASG Assisted by
Mr.V.Malaiyendran,
Central Government Standing Counsel for R1

Mr.P.Kannithevan, AGP for R2 and R3

ORDER

The prayer in the Writ petition is for a Writ of Mandamus, directing the respondents No.1 to issue passport to the petitioner in file No. MD01C5057785118.

2.Heard Mr.S.M.A.Jinnah, learned counsel for the petitioner, Mr.V.Kathirvelu, learned Assistant Solicitor General appearing for the first respondent and Mr.P.Kannithevan, learned Additional Government Pleader appearing for the respondents 2 and 3.



3. In order to get the passport No. MD01C5057785118, the petitioner seeks for a Mandamus from this Court.

4. On instruction, the learned Assistant Solicitor General appearing for the first respondent would submit that, there is a criminal case pending against the petitioner in Crime No. 221 of 2017 on the file of the Judicial Magistrate, Nelakottai, where, according to the learned Assistant Solicitor General, charge sheet has been filed and thereafter, it has been converted into calendar case. In view of the final report having been filed and it becomes calendar case, it is for the criminal Court to decide whether the petitioner can be let off now to go abroad by using the passport or his presence is required to complete the trial, if he is otherwise required for taking examination of evidences as these issues have to be decided only by the criminal Court. The passport authorities, expect an order to that effect from the concerned criminal Court, Hence, the learned Assistant Solicitor General submits that once the petitioner approached the criminal Court and get an order to that effect, pursuant to the said order, the passport authority would act upon.

5. I have considered the said submission made by the learned Assistant Solicitor General.

6. The petitioner is now facing the charge before the competent criminal Court and therefore, whether his immediate presence is required has to be decided only by the competent criminal Court, where the case is pending and in this regard, if the petitioner approaches the competent criminal Court by filing appropriate application, seeking permission from the said Court enabling the petitioner to get the passport from the passport authorities to go abroad as he desires, such application can be decided by the concerned criminal Court in accordance with law.

7. In that view of the matter, the present prayer sought for by the petitioner cannot be granted by this Court. Therefore, the Writ petition is rejected based on the aforesaid observation. No costs. Consequently, connected W.M.P. is closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /



To

1.The Passport Officer,
Regional passport officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai 625 002.

2.The Superintendent of Police,
O/o the Superintendent of Police,
Dindigul District.

3.The Inspector of Police,
Bathlagundu Police Station,
Dindigul District.

+1 CC to M/s.V.MALAIYENDRAN, Advocate

(SR-72643[F] dated 02/07/2019)

+1 CC to M/s.SPL GP (SR-73188[F] dated 03/07/2019)

+1 CC to M/s.S.M.A.JINNAH, Advocate (SR-72982[F] dated 03/07/2019)

W.P. (MD) No.14344 of 2019
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ES/22.07.2019/3P/7C