



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

W.P. (MD) No.14449 of 2019

and

W.M.P. (MD) No.10888 of 2019

Ponraj

... Petitioner

Vs.

1.The Regional Passport Officer,
Madurai Bharathi Ulla Vithi,
Race Case Road,
Madurai 625 002.

2.The Inspector of Police,
Sernthamaram Police Station,
Tirunelveli District.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in file No.MD 2062186925319, letter Ref.No.SCN/308771817/19, dated 18.06.2019 passed by the first respondent with regard to MD 2062186925319 and quash the same as illegal and consequently, direct the first respondent to issue passport to the petitioner with reference to the impugned order in Ref.No.SCN/308771817/19, dated 18.06.2019.

For Petitioner : Mr.A.Balaji

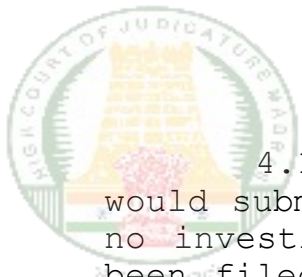
For Respondents : Mr.V.Kathirvelu, ASG assisted by
Mr.Irularasan, CGSC for R1
Mr.Bhagawathi, G.A. for R2

ORDER

The prayer in the Writ petition is to quash the letter Ref.No.SCN/308771817/19, dated 18.06.2019 issued by the first respondent with regard to MD 2062186925319 as illegal and consequently, direct the first respondent to issue passport to the petitioner.

2.The petitioner, in order to get fresh passport, made an application to the respondent. After considering the same, by a communication dated 18.06.2019, the first respondent issued a notice to the petitioner to appear before the respondents, within 30 days to give explanation as to why he has suppressed the material information ie., pendency of the criminal case.

3.Challenging the said notice dated 18.06.2019, the present Writ petition has been filed.



4.I have heard the learned counsel for the petitioner, who would submit that, it is only an FIR for alleged minor offence and no investigation seems to have been made and no final report has been filed and mere pendency of the FIR may not be the hindrance for the respondents to process the application of the petitioner to issue passport, if it is in order.

5.I have heard Mr.V.Kathirvelu, learned Assistant Solicitor General appearing for the respondents, who would submit that, no doubt mere pendency of the FIR may not be the hindrance for the respondents to independently decide the passport application on merits. However, at the time of making the application for fresh passport, since the pendency of the FIR has not been revealed by the petitioner, it would amount to suppression and only in that context, in order to take action against the petitioner, ultimately, by imposing the penalty against him for such suppression, an opportunity of being heard has to be given and that is the attempt which has been made in the impugned communication dated 18.06.2019 and therefore, the same need not be questioned instead of appearing before the respondents and to give explanation to the satisfaction of the respondents.

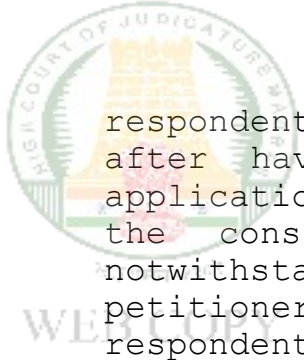
6.I have considered the said submission made by both sides.

7.As has been rightly pointed out by the learned Assistant Solicitor General appearing for the respondents, it is only a notice to the petitioner to appear before the respondents to give explanation as to why he has suppressed the fact that there is a criminal case pending against him at the FIR stage.

8.Be that as it may, first of all it is only a notice and therefore, the same need not be challenged. Therefore, the said challenge made in this Writ petition fails. Moreover, assuming that there is a criminal case pending at the FIR stage against the petitioner, notwithstanding that pendency, the respondents can independently decide the application for passport, otherwise, on merits. However, for having suppressed the fact of pending an FIR on the part of the petitioner, may be a violation for which, imposition of fine, normally would be imposed by the respondents, and only for that purpose the present notice has been issued.

9.Therefore, this Court finds no infirmity in such notice, which is impugned in this Writ petition.

10.In that view of the matter, this Writ petition is disposed of with the following direction -
That the petitioner shall appear before the respondents office, within a period of one week from the date of receipt of a copy of this order. On such appearance, the petitioner has to give satisfactory explanation for having suppressed the said fact to the respondents and on hearing the petitioner, it is for the



respondents to decide whether his application can be considered or after having imposed penalty only for such suppression, the application has to be considered. But in both ways, at any rate, the consideration of the application on merits otherwise, notwithstanding the fact that the FIR is pending against the petitioner, is not hampered and therefore, on that score, the respondents can consider the application of the petitioner and pass orders on merits and in accordance with law, within a period of two weeks thereafter. No costs. Consequently, connected W.M.P.is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

Sub Assistant Registrar (CS)

nbj

To

1.The Regional Passport Officer,
Madurai Bharathi Ulla Vithi,
Race Case Road,
Madurai 625 002.

2.The Inspector of Police,
Sernthamaram Police Station,
Tirunelveli District.

+1CC TO MR.I.IRULAPPAN, Advocate Sr. No. 72646

+1CC TO MR.A.BALAJI, Advocate Sr. No. 72611

W.P. (MD) No.14449 of 2019
01.07.2019

TR (05.07.2019) 3P 5C