



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.07.2019**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.12299 of 2018
and W.M.P.(MD)No.11180 of 2018

C.Subash

...Petitioner

-Vs-

1.The Regional Passport Officer,
Regional Passport Office,
Madurai, Bharathi Ula Veethi,
Race Course Road, Madurai.

2.The State represented by,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.

3.The Inspector of Police,
C.B.I.C.I.D. Wing,
Tirunelveli District.

...Respondents

(R3 is impleaded vide Court order dated 25.03.2019 in W.M.P.(MD)
No.5535 of 2019)

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order of the first respondent passed on dated nil in connection with his surrendering of passport vide booklet number S0994676 dated 31.05.2018 and set aside the same and consequently, direct the first respondent to issue a renewed passport to the petitioner as expeditiously as possible, within the time stipulation as prescribed by this Court.

For Petitioner : Mr.R.Anand

For R1 : Mr.Kathirvelu
Assistant Solicitor General
assisted by Mr.K.Prabhu
Central Government Standing Counsel

For R2 and R3 : Mr.Rajarajan
Government Advocate

**ORDER**

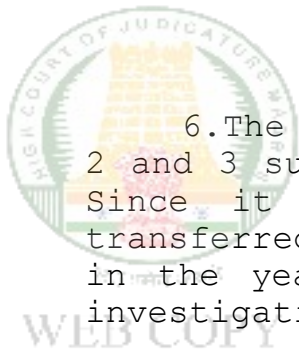
The prayer in this writ petition is for a Writ of Mandamus, to call for the entire records pertaining to the order of the first respondent passed on dated nil in connection with his surrendering of passport vide booklet number S0994676 dated 31.05.2018 and set aside the same and consequently, direct the first respondent to issue a renewed passport to the petitioner as expeditiously as possible, within the time stipulated by this Court.

2. Heard Mr.R.Anand, learned counsel appearing for the petitioner, Mr.Kathirvelu, learned Assistant Solicitor General appearing for the first respondent and Mr.Rajarajan, learned Government Advocate appearing for the second and third respondents.

3.The case of the petitioner is that, the petitioner is the passport holder in passport No.H5542889 and the same was, at the instructions of the respondents department, surrendered before the first respondent. Since the passport had not been given to the petitioner and it has been kept in the custody of the respondent office and to that effect, an order was passed by the first respondent dated 31.05.2018, challenging the same, the present writ petition has been filed.

4.I have heard the learned counsel for the petitioner, who would submit that, the passport was directed to be surrendered on the alleged reason that some criminal cases are pending against the petitioner. In this regard, he would submit that out of 3 criminal cases, which were pending against the petitioner, two cases have been quashed and the remaining one case, which is pending against the petitioner, is in the FIR stage and investigation is yet to be completed. Therefore, mere pendency of one criminal case in the FIR stage, may not be an impediment for the respondent to retain the passport. Therefore, without any such requirement, the petitioner's passport can be directed to be released.

5.However, the learned Assistant Solicitor General appearing for the first respondent would submit that, in the impugned order, it has been specifically mentioned that the passport of the petitioner has been kept in the custody of the respondents for the reason that adverse inputs were received from the police. In this regard, even though it was claimed by the petitioner that two cases have been quashed and orders have been produced before the respondents, with regard to the pendency of one case, some explanation was required and when it was sought for, the petitioner did not respond/appear before the first respondent office to give such explanation to the satisfaction of the Passport Issuing Authority and that is the reason why, the passport of the petitioner has been kept in the custody.



6.The learned Government Advocate appearing for the respondents 2 and 3 submits that, the case has been pending from 2013 onwards. Since it is one of the sensitive murder case, it has been transferred to CBCID for investigation. After transferring the same in the year 2018, the CBCID is investigating the matter and the investigation is yet to be completed.

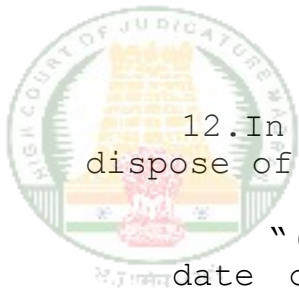
7.Therefore, the fact remains that, insofar as the three cases are concerned, as claimed by the petitioner, two out of three cases have been quashed and there is no controverted statement with regard to the said quashment of the two out of three cases, from the respondent's side. Therefore, this Court takes it that, the two out of three cases, which were pending against the petitioner, have been quashed. With regard to the remaining one case, it is stated by the learned Government Advocate appearing for the respondents 2 and 3, that it is pending in the investigation stage and no charge sheet has been filed.

8.It is to be noted that, mere pendency of a case at the FIR stage, cannot be the reason for withholding the passport and number of orders to that effect has been passed by this Court. But at the same time, when some special inputs are received by the Passport Issuing Authority from the Police, based on such special inputs, it is for the passport authority to verify those factors with the applicant or passport holder and in that regard, it is the prerogative of the respondent/passport authority to have an enquiry with the passport holder or applicant to satisfy the Passport Issuing Authority and once satisfactory explanation is given by the passport holder or applicant, thereafter, the respondent ie., the passport authority can pass the order either to release the passport or to impound the same, depending upon the outcome of the enquiry.

9.Therefore, in this context, the learned Assistant Solicitor General submits that, if the petitioner appears before the first respondent and gives explanation to the queries to be raised by the first respondent, to the satisfaction of the first respondent and depending upon such explanation given by the petitioner, final order would be passed either to release the passport or impound the same.

10.I have considered the said submission made by the learned counsel on either side.

11.As has been rightly pointed out by the learned Assistant Solicitor General appearing for the first respondent, on satisfaction of the first respondent that the passport of the petitioner is no more required to be kept in custody for any pendency of the criminal case, based on the input received by the authority from the Police and on such satisfaction, they can release the passport, otherwise it is for them to take a decision. But at any rate, in order to enable the first respondent to pass such final order, the petitioner shall appear before the first respondent.



12. In that view of the matter, this Court is inclined to dispose of this writ petition with the following direction:-

"(i) that the first respondent within one week from the date of receipt of a copy of this order shall send an intimation to the petitioner indicating the date for enquiry and on receipt of such communication from the first respondent, the petitioner shall appear before the first respondent on the said date mentioned in the notice and give all the explanation sought for including available documents with the petitioner and once such enquiry is completed, thereafter, based on explanation received from the petitioner, the first respondent shall pass final order either to release the passport or to hold or impound the same for the reason to be recorded. Such final order shall be passed within a period of four weeks.

(ii) during the enquiry, if any further inputs to be received by the first respondent from the respondents 2 and 3, it is open to the first respondent to receive such inputs also from the respondents 2 and 3 and once such communication is received from the first respondent to the second and third respondents, the second and third respondents shall give the inputs as desired by the first respondent. At any rate, final order shall be passed within a period of four weeks, after completing enquiry.

No costs. Consequently, connected Miscellaneous Petition is closed.

SD
ASSISTANT REGISTRAR (CO)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS)

Index : Yes/No
Internet : Yes/No
rmk

To

1. The Regional Passport Officer,
Regional Passport Office,
Madurai, Bharathi Ula Veethi,
Race Course Road, Madurai.

2. The State represented by,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.



3.The Inspector of Police,
C.B.I.C.I.D. Wing,
Tirunelveli District.

WEB COPY

1CC TO MR. K. PRABHU, ADVOCATE SR 73490

1CC TO MR. R. ANAND, ADVOCATE SR 73655

1CC TO THE SPL GOVT PLEADER SR 73728

KK

12/07/2019

5P 7C

Order made in
W.P.(MD)No.12299 of 2018

04.07.2019