



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) No.14897 of 2019

A.Harikrishnan

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office,
Bharathi ula Veedhi,
Race Course Road,
Madurai 625 002.

2.The Inspector of Police,
Villathikulam Police Station,
Thoothukudi District.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to process the petitioner's application pending in file No. MD 2061912455519 dated 25.02.2019 and consequently, direct the first respondent to issue the passport to the petitioner by considering his representation dated 20.06.2019 within the time stipulated by this Court.

For Petitioner : Mr.B.Janath Ahmed

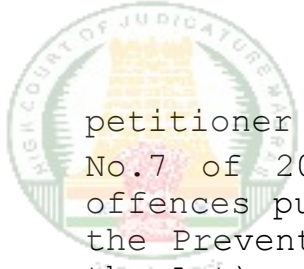
For Respondents : Mr.K.Prabhu, CGSC for R1
Mr.V.Anand, G.A.for R2

O R D E R

The prayer in the Writ petition is for a Writ of Mandamus, directing the first respondent to process the petitioner's application dated 25.02.2019 in file No.MD 2061912455519 and consequently, direct the first respondent to issue the passport to the petitioner by considering his representation dated 20.06.2019 within a time frame.

2.Heard Mr.B.Janath Ahamed, learned counsel for the petitioner, Mr.K.Prabhu, learned Central Government Standing Counsel appearing for the first respondent and Mr.V.Anand, learned Government Advocate appearing for the second respondent.

3.The petitioner, in order to get a fresh passport, made an application on 25.02.2019 to the first respondent in file No.MD 2061912455519. Since the said application having been processed, the first respondent, by notice dated 21.03.2019, informed the petitioner that, there had been an adverse police report against the



petitioner with regard to the pendency of a criminal case in Crime No.7 of 2017 on the file of the 2nd respondent for the alleged offences punishable under Sections 143 and 188 IPC and Section 22 of the Prevention of Cruelty to Animals Act, 1960 (herein after called the Act). In this regard, the said notice was given, directing the petitioner to give explanation.

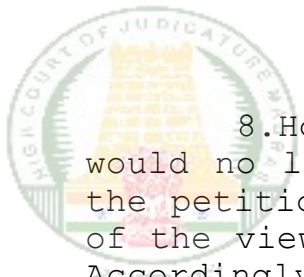
4.The petitioner, thereafter, seems to have given a representation on 20.06.2019, stating that the allegation under the FIR pending before the 2nd respondent, was that, he also one among the few person, who attempted to conduct a Jallikattu, which was against Section 22 of the said Act and subsequently, the said event was recognized as one of the recognized sport event, for which, permission was also granted. No further investigation seems to have been made by the respondents and assuming that, the said criminal case is pending, only it is in FIR stage and no further progress has been shown. Therefore, the pendency of the criminal case cannot be an impediment for the first respondent to independently decide the merits of the application filed by the petitioner for issuance of passport.

5.Heard learned standing counsel for the first respondent, who would submit that, based on the adverse report submitted by the 2nd respondent, the show cause notice was issued, and the criminal case is pending in FIR stage before the 2nd respondent and no investigation further had been made. The pendency of the said criminal case may not be a hindrance to the first respondent to independently decide the merits of the application of the petitioner and accordingly, the same would be decided on merits.

6.I have heard the learned Government Advocate appearing for the second respondent, who would also submit that, the investigation is still pending and no charge sheet has been filed.

7.Having regard to the said submission made by the learned counsel appearing for the parties by taking into account the factual matrix of this case, this Court is inclined to dispose of this Writ petition, with the following direction-

It is a settled proposition that, mere pendency of the FIR against an applicant, seeking for passport, cannot be the impediment to consider the application by the passport issuing authority. Herein the case in hand, admittedly, the criminal case is only in the FIR stage and no progress seems to have been made and no investigation has been made, probably because of the subsequent development, where amendment has been made by the State Government and by virtue of that, the Jallikattu has been recognized as one of the sport event for which, permissions are being granted by the State Government to various applicants and therefore, the very importance of the investigation in the said crime number could have been diminished its value and therefore, the 2nd respondent prosecution seems to have not shown any progress in the investigation.



8. However, the pendency of the criminal case at the FIR stage, would no longer be an impediment in considering the application of the petitioner by the first respondent and therefore, this Court is of the view that a direction can be given to the first respondent. Accordingly, the first respondent is directed to consider the application of the petitioner notwithstanding the fact that criminal case is pending against the petitioner in Crime No.7 of 2017 on the file of the 2nd respondent, independently, on its own merits, and pass final orders thereon after getting explanation if necessary from the petitioner, at any rate within a period of 4 weeks from the date of receipt of a copy of this order.

9. With this direction this Writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (AD-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Regional Passport Officer,
Regional Passport Office,
Bharathi ula Veedhi,
Race Course Road,
Madurai 625 002.

2. The Inspector of Police,
Villathikulam Police Station,
Thoothukudi District.

+1 CC to M/s.K.PRABHU, Advocate (SR-74939[F] dated 12/07/2019)

+1 CC to M/s.SPL GP (SR-75038[F] dated 12/07/2019)

W.P. (MD) No.14897 of 2019
11.07.2019

nbj

JM/06.09.2019/3P/5C