



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.15452 of 2019
and W.M.P. (MD) No.12095 of 2019

C.Raguman

... Petitioner

Vs.

1.The Secretary to Government
Ministry of External Affairs,
South Block,
New Delhi - 110 011.

2.The Regional Passport Officer,
Regional Passport Office,
Tiruchirappalli Municipal Water Tank Building,
W.B.Road, Tiruchirappalli.

3.The Inspector of Police,
Thondi Police Station, Thondi,
Ramanathapuram District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned letter in letter Ref.No.OBJ/308386355/19 dated 13.03.2019 issued by the 2nd respondent and quash the same and consequently direct the 2nd respondent to issue the passport to the petitioner.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.V.Kathirvelu for R1 and R2
Assistant Solicitor General

Mr.P.Kannithevan for R3
Government Advocate

ORDER

Challenging the impugned letter of the 2nd respondent dated 13.03.2019 and for a consequential direction to the 2nd respondent to issue passport, the petitioner is before this Court, with this writ petition.



2. Heard the learned counsel for the petitioner, the learned Assistant Solicitor General for the respondents 1 and 2 and the learned Government Advocate for the third respondent.

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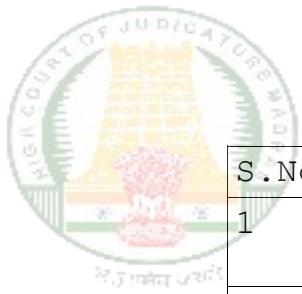
3. The petitioner made an application for getting a fresh passport to the second respondent and after having processed the said application, the second respondent issued a show cause notice dated 13.03.2019, whereby the second respondent directed the petitioner to give explanation as to why action should not be taken against the petitioner, as there has been an adverse report from the police stating that, there has been a criminal case pending in the third respondent police station against the petitioner and the said aspect has been suppressed by the petitioner, at the time of making the application.

4. Challenging the said communication dated 13.03.2019, this writ petition has been filed.

5. The learned counsel for the petitioner submits that, mere pendency of the case, at the FIR stage, may not be an impediment for the second respondent for independently considering the application of the petitioner for passport and therefore, the said communication dated 13.03.2019 ought not to have been issued. Therefore, interference of this Court has been sought for, it is contended.

6. However, the learned Assistant Solicitor General appearing for the respondents 1 and 2 would submit that, mere pendency of the criminal case, at the FIR stage, may not be an impediment for the second respondent to independently consider the application and decide the same on merits. But, in the case in hand, input has been received from the concerned police that, the criminal case is pending, which is not disclosed by the petitioner at the time of making application. Therefore, under the relevant Rule, the petitioner is liable to be inflicted a fine, if he has suppressed the material fact and therefore, before inflicting the fine on the petitioner for the alleged suppression, an opportunity has to be given. Therefore, in order to give that opportunity, the said show cause notice dated 13.03.2019 was issued. Therefore, instead of appearing before the second respondent Office to give explanation, the petitioner has challenged the same, which is unwarranted and the same also cannot be challenged. Therefore, the said prayer sought for, for quashing the said order dated 13.03.2019 may be rejected, he contended.

7. On the other hand, the learned Additional Government Pleader appearing for the third respondent would submit that, the following cases are pending against the petitioner, at the third respondent police station:



S.No.	Crime No.	Offences
1	67/2018	147, 148, 294(b), 324 and 307 IPC
2	112/2017	147, 148, 341, 323 and 506(ii) IPC
3	50/2018	147, 148, 294(b), 325 and 336 IPC

He would further submit that, all the three cases are pending before the third respondent only at the investigation stage and in none of the three cases, investigation is over and no charge sheet so far has been filed.

8. I have considered the said submissions made by the learned counsel for the parties.

9. No doubt, there has been three cases pending against the petitioner for various alleged offences and in all these three cases, the investigating agency will investigate the matter and file final report. Therefore, we can say it only as these cases are pending at the FIR stage.

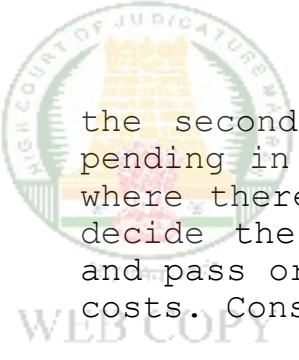
10. Insofar as the suppression of these three cases at the time of making application by the petitioner is concerned, the petitioner can be dealt with in the manner known to law and if at all the second respondent decided to impose any fine, the same can be imposed.

11. In that view of the matter, since mere pendency of the criminal case at the FIR stage is not an impediment for the second respondent to decide the application for passport independently on merits and in all these three cases, charge sheet is yet to be filed, this Court is inclined to dispose of this writ petition with the following directions:

(a) That the petitioner shall appear before the second respondent office pursuant to the impugned communication dated 13.03.2019 within two weeks from the date of receipt of a copy of this order, in any working day, between 10.00 a.m. and 5.00 p.m.;

(b) on such appearance, necessary explanation can be given by the petitioner to the second and the second respondent, after having considered the same, take a decision with regard to imposing penalty against the petitioner for the alleged suppression of the fact that, the cases were pending against him ; and

(c) Once the fine is slapped on the petitioner, the same has to be paid by the petitioner and on such event, if any fine is imposed against the petitioner and the same is paid by the petitioner, the application of the petitioner can be considered by



the second respondent, notwithstanding the fact that, the FIR is pending in all the three cases on the file of the third respondent, where there has been no charge sheet so far filed and accordingly, decide the application of the petitioner for issuance of passport and pass orders thereon within a period of four weeks thereafter. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary to Government
Ministry of External Affairs,
South Block,
New Delhi - 110 011.

2.The Regional Passport Officer,
Regional Passport Office,
Tiruchirappalli Municipal Water Tank Building,
W.B.Road, Tiruchirappalli.

3.The Inspector of Police,
Thondi Police Station,
Thondi, Ramanathapuram District.

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-75618[F] dated 17/07/2019)

+1 CC to M/s.K.PRABHU, Advocate (SR-75875[F] dated 17/07/2019)

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RR

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