



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) No.15420 of 2019

J.Manikandan

... Petitioner

Vs.

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

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

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1st respondent to issue a passport to the petitioner by considering the passport application vide file No.MD2061979298519 dated 20.03.2019 within a stipulated period as prescribed by this Court.

For Petitioner :Mr.S.Balaji

For Respondents :Mr.V.Kathirvelu
Assistant Solicitor General
assisted by Ms.B.Deepa for R1
Mr.C.M.Mari Chelliah Prabhu for R2
Additional Government Pleader

ORDER

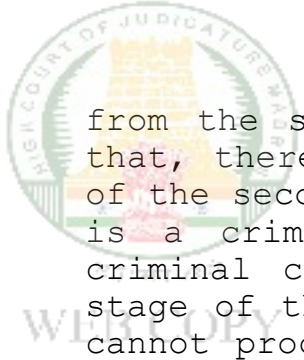
The prayer sought for in this writ petition is for a writ of mandamus to direct the 1st respondent to issue passport to the petitioner by considering the passport application vide file No.MD2061979298519, dated 20.03.2019.

2.Heard the learned counsel for the petitioner, the learned Assistant Solicitor General of India for the first respondent and the learned Additional Government Pleader for the second respondent.

3.The petitioner made an application on 20.03.2019 in application No.MD2061979298519 to the first respondent for issuance of fresh passport. However, the same has not been considered or it is kept pending for consideration at the first respondent office and therefore, the petitioner is before this Court with this writ petition with the aforesaid prayer.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The learned Assistant Solicitor General appearing for the first respondent would submit that, there has been an adverse report



from the second respondent police against the petitioner to state that, there has been a criminal case, which is pending on the file of the second respondent and in that view of the matter, since there is a criminal case pending, unless and until the fate of the criminal case is known to the second respondent or at least the stage of the criminal case is known to the second respondent, they cannot process with the application of the petitioner to issue the passport.

5. I have heard the learned Additional Government Pleader, who would submit that, there is a case pending in Crime No.231/2018 on the file of the second respondent police station for the alleged offence punishable under Section 379 IPC and in this regard, investigation has already been completed and charge sheet also filed before the competent criminal Court. However, the same has not been taken on file for some alleged defects. Therefore, after rectifying the same, shortly, the charge sheet would be resubmitted.

6. I have considered the said submissions made by the learned counsel for the parties and noted the contents of the materials placed before this Court.

7. Admittedly, there has been a criminal case pending against the petitioner. However, as of now, though it was claimed that, the charge sheet has been filed, it was not taken on file. Therefore, ultimately, it can be construed that, only it has been pending at the FIR stage. Mere pendency of a criminal case at the FIR stage may not be an impediment for the passport issuing authority for process the application of the petitioner, otherwise on merits. However, in the present case, it is claimed by the second respondent that, charge sheet has also been filed, but the same has not been taken on file.

8. Be that as it may, if at all the charge sheet already filed and the same is not taken up on file by the competent criminal Court, for any defects or any other reason, it is for the investigating agency to rectify the same and re-submit the charge sheet, enabling the criminal Court to take it on file. Merely claiming that, the charge sheet has already been filed and without verifying the same, as to whether it is defective or not, the Investigating Agency cannot act thereupon. Therefore, it is their duty to rectify the defects and file the charge sheet before the competent criminal Court as expected by the Court to take on file.

9. Because of the pendency of the criminal case, in between stage, ie., between FIR and the filing of the charge sheet, the application of the petitioner pending with the first respondent is not able to be processed.

10. In view of the facts and circumstances, this Court is of the view that, some outer limit can be given to the second respondent to rectify the mistakes, if any, in the charge sheet

<https://hservices.ecourts.gov.in/hservices/>

already filed and to ensure that, the charge sheet is taken on file by the competent criminal Court, otherwise, a suitable direction can be given to the first respondent to process the application of the petitioner independently.

11. In the result, this writ petition is disposed of with the following directions:

(a) That the second respondent is directed to verify the charge sheet already claimed to have been filed before the competent criminal Court, as to whether it is in order and if so, steps can be taken to pursue the matter with the competent criminal Court to take it on file and once the charge sheet is taken on file, the said development can be informed by the second respondent to the first respondent office immediately ;

(b) For the aforesaid compliance, two weeks time is given, within the said two weeks period, if it is not made by the second respondent and charge sheet is not taken on file, it shall only be construed that, the charge sheet has not been filed and in that circumstances, it is open to the first respondent to take up the application of the petitioner and decide it on merits independently, after giving an opportunity to the petitioner and accordingly, pass final orders thereon within a period of four weeks thereafter. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

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

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

+1 CC to Mr.S.BALAJI, Advocate SR-75860.
+1 CC to SPL GP SR-75998.
+1 CC to M/s.B.DEEPA, Advocate SR-76146.

W.P. (MD) No.15420 of 2019
17.07.2019