



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P (MD)No.18716 of 2019

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Chinnappa Charles

... Petitioner

vs.

1.The Passport Officer,
Bharath Ula Street,
Race Course Road,
Madurai.

2.The Inspector of Police,
Devakottai Police Station,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to issue the passport to the petitioner by considering the application bearing No.MD01C5055599919 within the stipulated period as fixed by this Court.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondents : Mr.V.Kathirvelu
Assistant Solicitor General of India
assisted by
Mr.C.Nandagopal
Central Government Standing Counsel
for R.1
: Mr.K.Mu.Muthu
Additional Government Pleader
for R.2

ORDER

Mr.RM.Arun Swaminathan, learned counsel on record for writ petitioner and Mr.V.Kathirvelu, Assistant Solicitor General of India, assisted by Mr.C.Nandagopal, Central Government Standing Counsel for first respondent and Mr.K.Mu.Muthu, learned Additional Government Pleader, on behalf of second respondent are before this Court.

2. All the aforesaid Counsel, i.e., Counsel for writ petitioner, Assistant Solicitor General of India and Additional Government Pleader submitted without any disputation or disagreement that instant case is squarely and directly covered by

<https://hcservices.ecourts.gov.in/hcservices/> an order dated 17.07.2019, made in W.P.(MD)No.15420 of 2019



made/passed by a Honourable Single Judge of this Court.

3. This is a case where State Counsel, on instructions, submitted that charge sheet was filed on 04.07.2019 but not taken on file.

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4. Learned Counsel for the petitioner also has placed before this Court a hard copy of the case status downloaded from website qua jurisdictional Judicial Magistrate's Court, i.e., Judicial Magistrate Court, Devakottai, to show the status of the case to demonstrate that charge sheet has been taken on file.

5. In the light of the aforesaid stated position of parties which is without any disputation or disagreement as it unfurled in the hearing, this Court deems it appropriate to extract paragraph Nos.3 to 10 of the earlier order dated 17.07.2019, made in W.P. (MD)No.15420 of 2019:

'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.

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 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.'

6. Therefore, instant case shall be disposed of with same set of directions as in W.P.(MD)No.15420 of 2019, which are as follows:

(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.

7. Instant Writ Petition is disposed of with the above directions. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

SSL

To

1.The Passport Officer,
Bharath Ula Street,
Race Course Road,
Madurai.

2.The Inspector of Police,
Devakottai Police Station,
Sivagangai District.

+1 CC to M/s.R.M. ARUN SWAMINATHAN, Advocate (SR-85288[F] dated 05/09/2019)

+1 CC to M/s.C.NANDAGOPAL, Advocate (SR-85503[F] dated 06/09/2019)

+1 CC to M/s.SPL GP (SR-85623[F] dated 06/09/2019)

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