



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P (MD) No.19537 of 2019

Mohana Kannan

... Petitioner

vs.

1.The Regional Passport Officer,
Regional Passport Office,
Madurai.

2.The Inspector of Police,
keelavalavu Police Station,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the first respondent to issue passport to the petitioner by considering her application No.MD1062294093519 dated 18.07.2019.

For Petitioner : Mr.A.V.Arun

For R - 1 : Mr.V.Kathirvelu,
Assistant Solicitor General
Assisted by
Mr.G.Moovendran,
Central Government Standing Counsel

For R - 2 : Mr.K.Mu.Muthu,
Additional Government Pleader.

ORDER

Mr.A.V.Arun, learned counsel on record for writ petitioner; learned Senior Counsel Mr.V.Kathirvelu, Assistant Solicitor General instructed by Mr.G.Moovendran, learned Central Government Standing Counsel on behalf of first respondent and Mr.K.Mu.Muthu, learned Additional Government Pleader on behalf of third respondent are before this Court.



2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. It is submitted that without disputation or disagreement that the instant matter is directly / squarely covered by an earlier order made by my predecessor Honourable Judge being order dated 07.08.2019 in W.P(MD)No.16819 of 2019. It is also submitted that the earlier order has not been carried in appeal and that it has been given effect to.

4. Relevant portion of the earlier dated 07.08.2019 reads as follows:

'3. The petitioner's passport had been surrendered as instructed by the first respondent and thereafter, the petitioner made an application on 22.05.2018 to reissue the passport.

4. The said application, having been processed by the first respondent, has been kept pending for the reason that, during the process, when they sought for the report from the concerned police, an adverse police report has been received, under which, it has been revealed that, a criminal case is pending against the petitioner in Crime No.121 of 2017 on the file of the Sivagangai Taluk Police Station for the offences punishable under Sections 420 and 506(i) IPC and in view of the pendency of the said criminal case, without knowing the actual stage of the investigation and the stage of the criminal case as to whether the police filed a final report or not and the case has become CC or not, the first respondent could not be in a position to proceed the application of the petitioner, anymore.

5. In this context, the learned counsel appearing for the petitioner submitted that, even till today, the said case is pending only at the FIR stage and investigation is yet to be over and mere pendency of the case at the FIR stage, may not be an impediment for the first respondent to process the application, independently.

6. I have heard the learned Government Advocate appearing for the second respondent, who would submit that, the said case is still pending in the investigation stage and the final report has not so far been filed.

7. I have heard the learned counsel appearing for the parties and perused the materials placed before this Court. 8. Since it is an admitted fact that, the case pending against the petitioner, where investigation is pending and charge sheet/police report



jurisdictional criminal Court and therefore, it can only be considered as the criminal case pending at the FIR stage and it is well settled legal proposition and a number of orders have been passed by this Court that, mere pendency of the case at the FIR stage, may not be an impediment for the Passport Issuing Authority to decide the application of the individual applicant on merits, this Court is inclined to pass the following order :-

"that the first respondent is hereby directed to process the application of the petitioner, dated 22.05.2018 and in this regard, if any further explanation is to be sought for from the petitioner, an opportunity of hearing can also be given to the petitioner and after getting information or clarification from the petitioner and if there is no other criminal case is pending against the petitioner and in the present criminal case against the petitioner referred to above if no charge is filed, the first respondent can process the application of the petitioner on merits and in accordance with law and decision shall be taken thereon to reissue the passport of the petitioner and final order shall be passed to that effect, within a period of four weeks and based on that order to be passed by the first respondent, the concerned authority, before whom, the passport has already been surrendered by the petitioner, on instructions, shall release the passport and reissue the same to the petitioner, thereafter, within a period of two weeks".'

5. Therefore, this Writ Petition is disposed of with a similar direction to the first respondent, which reads as follows:

That the first respondent is hereby directed to process the application of the petitioner, dated 18.07.2019 and in this regard, if any further explanation is to be sought for from the petitioner, an opportunity of hearing can also be given to the petitioner and after getting information or clarification from the petitioner, the first respondent can process the application of the petitioner on merits and in accordance with law, if no other criminal case is pending against the petitioner and in the present criminal case against the petitioner referred to above if no charge is filed, and decision shall be taken thereon to reissue the passport of the petitioner and final order shall be passed to that effect, within a period of four weeks from the date of receipt of a copy of this order and based on that order to be passed by the first respondent, the concerned authority, before whom, the passport has already been



surrendered by the petitioner, on instructions, shall issue the same to the petitioner, thereafter, within a period of two weeks.

No costs.

Sd/-

Assistant Registrar(CO)

WEB COPY

/TRUE COPY/

Sub Assistant Registrar

To

1.The Regional Passport Officer,
Regional Passport Office,
Madurai.

2.The Inspector of Police,
keelavalavu Police Station,
Madurai District.

+1 CC to M/s.SPL GP (SR-87233[F] dated 17/09/2019)

+1 CC to M/s.A.V. ARUN, Advocate (SR-86745[F] dated 16/09/2019)

**W.P(MD)No.19537 of 2019
16.09.2019**

ps

JM/25.09.2019/4P/5C