



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.09.2019**

CORAM:

THE HONOURABLE **MR.JUSTICE M.SUNDAR**

W.P (MD)No.20875 of 2019

Karthick Selvam

... Petitioner

/Vs./

1.The Regional Passport Officer,
Regional Office, Bharathi Ula Veethi,
Racecourse Road,
Madurai - 625 002.

2.The Inspector of Police,
Theeder Nagar Police Station,
Madurai City.
(In Crime No.519 of 2018)

3.The Inspector of Police,
Koodalpudur Police Station,
Madurai City.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to return the petitioner's passport in Passport No.T2157492 based on the representation dated 25.08.2019 within the time stipulated by this Court.

For Petitioner: Mr.S.Muniyandi
for Mr.R.Manoharan

For R-1 : Mr.V.Kathirvelu,
Assistant Solicitor General of India
assisted by
Mr.S.Raghaventhre
Standing counsel

For R-2 & R-3 : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

Mr.S.Muniyandi, learned counsel on record for writ petitioner, Mr.V.Kathirvelu, learned Senior counsel and Assistant Solicitor General of India instructed by Mr.S.Raghaventhre, learned Standing counsel, who accepts notice on behalf of first respondent and Mr.K.Mu.Muthu, learned Additional Government Pleader, who accepts notice on behalf of respondents 2 and 3 are before this Court.



2. With consent of learned counsel on both sides, main writ petition is taken up for disposal at the stage of admission itself.

3. It is submitted by all the aforesaid counsel without any dispute or disagreement that this matter is directly and squarely covered by an earlier order dated 07.08.2019 made in W.P. (MD)No.16819 of 2019 by the Hon'ble Single Judge of this Court. It is submitted that there is no intra-Court appeal against the said order. Said order 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 has not so far been filed before the concerned 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.''

4. Therefore, there will be a similar direction in the instant writ petition and the same is as follows:

'The first respondent is hereby directed to process the representation of the petitioner, dated 25.08.2019 (Page Nos.7 and 8 of the typed set of papers forming part of the case file) 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.'

5. With the above directions, instant Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Regional Passport Officer,
Regional Office, Bharathi Ula Veethi,
Racecourse Road,
Madurai - 625 002.
 - 2.The Inspector of Police,
Theeder Nagar Police Station,
Madurai City.
 - 3.The Inspector of Police,
Koodalpudur Police Station,
Madurai City.
- +1 CC to Mr.R.MANOCHARAN, Advocate SR-90122.
+1 CC to SPL GP SR-90528Order made in

W.P(MD)No.20875 of 2019

Dated:

27.09.2019

CS(17.10.2019) 4P 6C