



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2019

CORAM:

**THE HONOURABLE MR.JUSTICE M.GOVINDARAJ**

W.P (MD) No.21088 of 2019

WEB COPY

Ajithkumar Thangaraj

.. Petitioner

Vs.

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

2.The Inspector of Police,  
Keelavalavu Police Station,  
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the 1st respondent to issue passport to the petitioner by considering his application dated 05-08-2019 in File.No.MD1061699832518.

For Petitioner : Mr.A.V.Arun

For R1 : Mr.V.Kathirvelu  
Assistant Solicitor General  
assisted by Mr.K.Prabhu

For R2 : Mrs.J.Padmavathi Devi  
Special Government Pleader

### **ORDER**

The petitioner has applied for passport with the first respondent. On police verification it was found that the petitioner has been involved in a criminal case in Crime No.246/2018 on the file of Keelavalavu Police station. Therefore, he was directed to appear before the first respondent within 21 days by the letter dated 06.07.2019.

2.According to the petitioner, pendency of criminal proceedings is not a bar for processing the application. As per the judgment of a Division Bench of this Court in W.A(MD)No.301 of 2018 dated 17.03.2018, unless cognizance is taken by the concerned Magistrate, no proceeding can be construed as pendency of criminal proceeding and passport application shall be processed. Therefore, he seeks a direction directing the first respondent to process his passport application.



3. On instructions, Mr.V.Kathirvelu, learned Assistant Solicitor General of India, appearing for the first respondent reported before this Court that pendency of criminal proceeding, though is not a bar, the present factual circumstances reveal that a charge sheet has been filed by the police, but it is not taken on file. Further, pursuant to the notice issued by the first respondent on 06.07.2019, the petitioner has not appeared before the passport authorities. However, the said fact is resisted by the learned counsel appearing for the petitioner stating that the petitioner has appeared on 24.07.2019 and explained the circumstances to the passport authorities.

4. Be that as it may, the first respondent is directed to verify the records and if the petitioner has appeared before the passport authorities as submitted by him and if the file is not closed, the first respondent shall process the application, irrespective of the fact of pendency of the First Information Report. On the other hand, if it is found that the petitioner has not appeared and the file was closed, a direction is given to the petitioner to file a fresh application for issuance of passport before the first respondent and on receipt of such application, the first respondent is directed to consider the same and take appropriate action in accordance with law, within a period of four weeks from the date of receipt of the fresh application. In the meanwhile, if the charge sheet is taken on file and the Magistrate has taken cognizance of the offence, then the petitioner is at liberty to approach the concerned Magistrate Court for the purpose of processing passport as per G.S.R.570(E) of the Notification dated 25.11.1993, issued by the Ministry of External Affairs. The relevant portion of the said Notification is extracted hereunder for easy reference.

*"G.S.R.570(E) - In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No.G.S.R.298(E), dated the 14<sup>th</sup> April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal Court in India and who produce orders from the Court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-*

*(a) the passport to be issued to every such citizen shall be issued-*



(i)for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii)if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year;

(iii)if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv)If such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order

(b)any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c)any passport issued in terms of (a)(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d)the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued."

5.The writ petition is disposed of with the above direction.  
No costs.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS )

To

1.The Regional Passport Officer,  
Regional Passport Office,  
Bharathi Ula Street,  
Race Course Road,

<https://hcservices.mca.gov.in/hcservices> 635 002.



2.The Inspector of Police,  
Keelavalavu Police Station,  
Madurai.

+1 CC to Mr.A.V.ARUN, Advocate ( SR-92154[F] dated 16/10/2019 )

W.P. (MD) No.21088 of 2019  
16.10.2019

mj  
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