



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) No.22638 of 2018

Rahim Khan

... Petitioner

Vs.

1.The Government of India,
Ministry of External Affairs,
New Delhi.

2.The Government of India,
Ministry of External Affairs,
Regional Passport Office,
Kochadai
Madurai.

3.The Inspector of Police,
Keelakarai Police Station,
Keelakarai
Ramanathapuram District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 2nd respondent to release the petitioner's passport bearing No.N6041160 impounded by the Immigration Officer at Madurai Airport, Madurai, at the instigation of the 3rd respondent in Crime No.59/2012 pending disposal of the case in C.C.No.15/2013 on the file of the Judicial Magistrate, No.I, Ramanathapuram, within the period stipulated by this Court.

For Petitioner
For Respondents

: Mr.A.Haja Mohideen
: Mr.V.Kathirvelu
Assistant Solicitor General
for Ms.S.Ragavanthre for R1 & R2
Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
for R3

ORDER

This writ petition has been filed to direct the 2nd respondent to release the petitioner's passport bearing No.N6041160 impounded by the Immigration Officer at Madurai Airport, Madurai, at the instigation of the 3rd respondent in Crime No.59/2012 pending disposal of the case in C.C.No.15/2013 on the file of the Judicial Magistrate, No.I, Ramanathapuram.



2. Heard the learned counsel for the petitioner, the learned Assistant Solicitor General of India for the respondents 1 and 2 and the learned Additional Government Pleader for the third respondent.

3. The petitioner's passport No.N6041160 was seized by the Immigration Officer at Madurai Airport, Madurai and has been handed over to the second respondent on the ground that, there is a criminal case pending against the petitioner before competent criminal Court.

4. Thereafter, it seems that, the second respondent issued a show cause notice dated 21.03.2016 to give explanation as to why the pendency of the criminal case has been suppressed and as to why the passport of the petitioner shall not be impounded. Since the petitioner has not responded to the said show cause notice, the second respondent has impounded the passport of the petitioner on 25.10.2016.

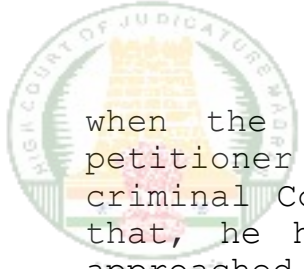
5. However, subsequently, on 21.11.2017, the petitioner appeared before the second respondent office and stated that, he would again approach the second respondent office, after getting necessary orders from the competent Criminal Court, where criminal case is pending against him. Only in that circumstances, the petitioner has approached this Court with this writ petition with the aforesaid prayer.

6. The fact remains that, there is a criminal case pending against the petitioner pending in C.C.No.15/2013 on the file of the Judicial Magistrate, No.I, Ramanathapuram, and the same is still pending, yet to be over.

7. When criminal case is pending, it is a settled proposition that, the passport holder, in order to get renewal of the passport or to get back the impounded passport, has to approach only the competent criminal Court by filing appropriate application and after getting orders from the criminal Court and on production of the same to the passport issuing authority, the passport issuing authority can pass orders accordingly.

8. Here, in the case in hand, the petitioner, since already appeared before the second respondent and assured that, he will get orders from the criminal Court by filing necessary application, seems to have not approached so far the said criminal Court. In this context, the learned counsel for the petitioner submits that, the petitioner is ready and willing to approach the criminal Court by filing appropriate application and after getting orders, he would approach the second respondent for necessary relief.

9. The learned Assistant Solicitor General appearing for the respondents 1 and 2 would submit that, since the passport has been impounded as early as on 25.10.2016 and thereafter, on 21.11.2017,



when the petitioner appeared before the second respondent, the petitioner stated that, he would get an order from the competent criminal Court, so far, he has not received any order and it seems that, he has not even approached the criminal Court and once he approached the criminal Court and get an order and produce the same before the second respondent, accordingly, as per the order of the criminal Court, the second respondent office will act upon.

10. I have considered the said submissions made by both sides and also perused the materials placed before this Court.

11. As has been stated by the petitioner before the second respondent when he appeared on 21.11.2017, the petitioner already approached the competent criminal Court with necessary petition and the same has been brought to the notice of this Court that, he has already approached. However, the petition is yet to be decided. The learned counsel for the petitioner submits that, he would advise the petitioner to persuade the said petition before the competent criminal Court to get an order.

12. In these circumstances, taking into account the facts mentioned above and having regard to the said submissions made by the learned counsel for the petitioner, this Court is inclined to dispose of the writ petition with the following directions:

(1) That the petitioner is at liberty to pursue his petition already filed before the criminal Court, as claimed by the learned counsel for the petitioner and if not filed, it is open to the petitioner to file such a petition before the competent criminal Court, where the case is pending against him and after getting orders from the competent criminal Court, the same can be produced by the petitioner to the second respondent Passport Issuing Authority and also the petitioner to give explanation as to the reasons for the non-disclosure of the pendency of the criminal case before the second respondent and on the basis of the order to be produced by the petitioner as well as the explanation to be given by the petitioner, let, the second respondent take a decision with regard to the releasing of the impounded passport of the petitioner; and

(2) The needful as indicated above shall be undertaken by the second respondent within a period of four weeks from the date on which, the petitioner appeared before the second respondent office by producing the order to be passed by the criminal Court. No costs.

Sd/-

Assistant Registrar (CS-II)

/TRUE COPY/

Sub Assistant Registrar



To

1.The Government of India,
Ministry of External Affairs,
New Delhi.

2.The Government of India,
Ministry of External Affairs,
Regional Passport Office,
Kochadai
Madurai.

3.The Inspector of Police,
Keelakarai Police Station,
Keelakarai, Ramanathapuram District.

+1 CC to M/s.A.HAJA MOHIDEEN, Advocate (SR-74282[F] dated
09/07/2019)

+1 CC to M/s.SPL GP (SR-74474[F] dated 10/07/2019)

W.P. (MD) No.22638 of 2018
09.07.2019

rr
JM/28.08.2019/4P/6C