



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2019

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.22603 of 2017

and

W.M.P. (MD) No.18889 of 2017

R.Rahmathulla

... Petitioner

-Vs-

1.The Regional Passport Officer,
Regional Passport Office,
Tiruchirappalli Municipal Water
Tank Building,
W.B.Road,
Tiruchirappalli - 620 008.

2.The Commissioner of Police,
O/o.the Commissioner of Police,
Tiruchirappalli.

3.The Inspector of Police,
Gandhi Market Police Station,
Tiruchirappalli.

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records in File No.TR 2070206298917 dated 28.06.2017 passed by the respondent No.1 and quash the same as illegal consequently direct the respondent No.1 to return the passport with booklet number P8450165 to the petitioner.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.Jayasingh, CGSC for R1
Mr.C.M.Mari Chelliah Prabhu, AGP
for RR2 and 3

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, to call for the records in File No.TR 2070206298917 dated 28.06.2017 passed by the respondent No.1 and quash the same as illegal consequently direct the respondent No.1 to return the passport with booklet number P8450165 to the petitioner.



2. Heard Mr.S.M.A.Jinnah, learned counsel appearing for the petitioner and Mr.Jayasingh, learned Central Government Standing Counsel for the 1st respondent and Mr.C.M.Mari Chelliah Prabhu, learned Additional Government Pleader appearing for the respondents 2 and 3.

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3. The petitioner is the holder of Passport with booklet No.P8450165 and the same had been surrendered by the petitioner at the instance of the 1st respondent and by the impugned order, which is nothing but a surrender certificate issued by the 1st respondent dated 28.06.2017, it has been informed by the 1st respondent that, the petitioner's passport surrendered by him has been kept in the custody of the 1st respondent office due to adverse inputs received from the police. Challenging the said order, the present writ petition has been filed.

4. I have heard the learned counsel appearing for the petitioner, who would submit that, according to the 3rd respondent, there has been two cases filed against the petitioner in the year 2014 and 2015 in crime No.49 of 2014 and 1687 of 2015 respectively and yet another case in crime No.1316 of 2015 has also been registered by the Chennai City Jambazar Police Station. Assuming that these three cases are pending against the petitioner, all the cases are still pending only in the FIR stage. Therefore, the 1st respondent cannot retain the passport for ever.

5. However, the learned Central Government Standing Counsel appearing for the 1st respondent would submit that, the said three cases have been pending against the petitioner from 2014 and 2015 and based on which, when the 1st respondent received the inputs from the respondent police, the petitioner has been directed to surrender the passport and accordingly, it has been kept in the custody and still in those cases, if charge sheet have not been filed, the surrender of the passport would be reviewed by the 1st respondent in accordance with law, but, at the same time, in the meanwhile, if final report in any one of the case has been filed, then, it is open to the petitioner to approach the concerned criminal Court to get an order and based on which, the passport can be released.

6. The learned Additional Government pleader appearing for the respondents 2 and 3 would submit that, the cases against the petitioner in FIR stage were prevailing in the year 2014 and 2015 and thereafter four and five years have gone by. Therefore, in the meanwhile, whether charge sheet has been filed or not is still to be ascertained and once charge sheet is filed in any one out of three cases pending against the petitioner, the same would be intimated to the 1st respondent, passport issuing authority and accordingly, they can decide the issue.

7. Considering the submission made by both sides and having regard to the factual matrix of the case, this Court is inclined to issue the following direction:



"The 2nd and 3rd respondents shall intimate the present status of the case pending under their jurisdiction and apart from that, the 1st respondent shall get report from the concerned police officer in respect of crime No.1316 of 2015 on the file of the Chennai City jambazar police station as to the status of the pendency of such case as to whether charge sheet has been filed for those cases and if in all the three cases, charge sheet have not been filed and still pending at the FIR stage, the 1st respondent shall issue a notice to the petitioner and after getting explanation from the petitioner, if there is any suppression of pending of FIRs, the issue of returning back of the passport can be decided accordingly. However, if in any one of the three cases, charge sheet has already been filed and the same is ensured by way of report from the police authorities, which should be sought for by the 1st respondent, the 1st respondent, based on such input to be submitted by the police authorities, can take a decision relegating the petitioner to approach the competent criminal Court to get an appropriate order and based on which, a decision can be taken to return the passport. The aforesaid exercise of the 1st stage either to decide the Stage of the cases or to relegate the competent criminal Court shall be made by the 1st respondent, within a period of 8 weeks from the date of receipt of a copy of this order and once, the petitioner is driven to go to the criminal Court to get an order, in case, if in any one of the case, charge sheet is filed, on production of such order, the same shall be decided by the 1st respondent, within a period of four weeks thereon."

8. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Regional Passport Officer,
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2.The Commissioner of Police,
O/o.the Commissioner of Police,
Tiruchirappalli.

3.The Inspector of Police,
Gandhi Market Police Station,
Tiruchirappalli.

+1 CC to M/s.S.M.A.JINNAH, Advocate (SR-74827[F] dated 11/07/2019)

+1 CC to M/s.SPL GP (SR-75031[F] dated 12/07/2019)

+1 CC to M/s.S.JAYASINGH, Advocate (SR-74727[F] dated 11/07/2019)

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Dated:

11.07.2019

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