



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.3406 of 2020

T.Rajakumar

... Petitioner

Vs.

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

2.The Inspector of Police,
Thirukurungudi,
Nanguneri Taluk,
Tirunelveli District.

... Respondents

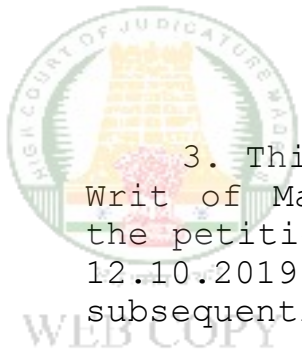
Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to return back the petitioner's passport bearing No.L4124118(which was seized on 12.10.2019 at Trivandrum International Airport, Kerala State, and subsequently sent to the first respondent office) to the petitioner.

For Petitioner	: Mr.V.Sasi Kumar
For R-1	: Mr.V.Kathirvelu, Assistant Solicitor General, Assisted by Mr.Irulappan Central Government Standing Counsel
For R-2	: Mr.M.Rajarajan, Government Advocate

ORDER

Mr.V.Kathirvelu, learned Assistant Solicitor General, assisted by Mr.Irulappan, learned Central Government Standing Counsel, takes notice for the first respondent and Mr.M.Rajarajan, learned Government Advocate takes notice for the second respondent.

2. By consent, the writ petition is taken up for disposal at the admission stage itself.



3. This Writ petition has been filed praying for issuance of a Writ of Mandamus, directing the first respondent to return back the petitioner's passport bearing No.L4124118, which was seized on 12.10.2019 at Trivandrum International Airport, Kerala State, and subsequently sent to the first respondent office.

4. The petitioner had originally obtained a passport bearing No.L4124118, which was valid up to 01.08.2023. While so, on 12.10.2019, the Immigration Authority at Trivandrum International Airport seized the petitioner's passport stating that a criminal case is pending and directed the petitioner to collect the passport from the first respondent. Thereafter, the petitioner approached the first respondent on 23.10.2019 and requested to return the passport. However, the first respondent refused to return the passport stating that a criminal case in Crime No.83 of 2013 on the file of the Thirukurungudi Police Station is pending against the petitioner.

5. The petitioner's complaint is that there is only an F.I.R pending from the year 2013. Further, the petitioner has made an application before the learned Judicial Magistrate, Valliyoor for issuance of a certified copy of the charge sheet filed in Crime No.83 of 2013, but the same was returned with an endorsement that **'charge sheet not filed in this Crime No.83 of 2013. Hence returned. '** . When there is no offence, which has been taken cognizance by any criminal Court, it cannot be treated as a proceeding pending before the criminal Court.

6. The learned Assistant Solicitor General appearing for the first respondent also submits that there is no charge sheet filed; only an F.I.R is pending against the petitioner and there is no impediment for returning the passport.

7. As per the notification issued by the Ministry of External Affairs, New Delhi, dated 25.08.1993 in G.S.R.No.570(E) and following the same, orders were also passed directing the authorities to issue the passport. It will be useful to extract the relevant portion of the said notification:

"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 14th 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.."

8. In view of the above, the first respondent is directed to return the passport bearing No.L4124118, to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No Costs.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

To:

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

2.The Inspector of Police,
Thirukurungudi,
Nanguneri Taluk,
Tirunelveli District.

+1 CC to M/s.V.SASIKUMAR, Advocate (SR-7362[F] dated 20/02/2020)

+1 CC to M/s.SPL.GP (SR-7527[F] dated 21/02/2020)

+1 CC to M/s.I.IRULAPPAN, Advocate (SR-7640[F] dated 21/02/2020)

W.P(MD)No.3406 of 2020
20.02.2020

mr(CO)

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