



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.4011 of 2020

and

W.M.P. (MD) Nos.3401 & 3403 of 2020

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Ummer Abdullah Haja Mohideen

... Petitioner

Vs.

1) The Government of India,
Ministry of External Affairs,
Represented by the Regional Passport Officer,
The Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road, Madurai 625 002

2) The Inspector of Police,
Eruvadi Police Station,
Eruvadi,
Tirunelveli District.
(Crime Nos.172 & 173 of 2019)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the impugned communication dated 29.01.2020 made in Letter Ref No.SCN/309655655/20 in File No.MD2072735525120 issued by the 1st respondent in relation to the passport issued to the petitioner and quash the same as illegal and erroneous forthwith.

For Petitioner : Mr.S.Palani Velayutham

For R-1 : Mr.V.Kathirvelu,
Assistant Solicitor General
Assisted by Ms.V.Raghaventhare
Central Govt. Standing Counsel

For R-2 : Mr.M.Murugan,
Government Advocate

O R D E R

M/s.S.Ragaventharee, learned Central Government standing counsel takes notice for the first respondent.

2. The writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorari, to call for the impugned



communication dated 29.01.2020 made in Letter Ref No.SCN/309655655/20 in File No.MD2072735525120 issued by the 1st respondent in relation to the passport issued to the petitioner and quash the same as illegal and erroneous forthwith.

3. The case of the petitioner is that on 29.01.2020, the first respondent issued a Letter Ref No.SCN/309655655/20 in File No.MD2072735525120 with regard to the issuance of passport facilities on the basis of adverse police verification report. It was further stated that the petitioner had suppressed the pendency of two criminal cases bearing Crime Nos.172 and 173 of 2019 on the file of the 2nd respondent.

4. The learned Additional Government Pleader appearing for the second respondent submitted that in Crime nos.172 and 173 of 2019 on the file of the 2nd respondent, the investigation has been completed and charge sheet has been filed in C.C.Nos.28 and 35 of 2020 on the file of learned Judicial Magistrate, Nanguneri.

5. When there is no offence, which has been taken cognizance by any criminal Court, which cannot be treated as a proceeding pending before the criminal Court even 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.."

6. In view of the notification issued by the Central Government, the processing of the petitioner's passport cannot be refused merely on the ground of pendency of the criminal case. Therefore, this Court directs the petitioner to approach the learned Judicial Magistrate, Nanguneri before whom the criminal cases are pending and move an appropriate application seeking permission of the Court for necessary direction.



7. With the aforesaid direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl Side)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

- 1) The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
The Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road, Madurai 625 002
- 2) The Inspector of Police,
Eruvadi Police Station,
Eruvadi,
Tirunelveli District.
(Crime Nos.172 & 173 of 2019)
- 3) The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Judicial Magistrate,
Nanguneri.

+1cc to Mr.S.Palani Velayutham, Advocate, SR No.8933
+1cc to M/s.Special Government Pleader, SR NO.9132

W.P(MD)No.4011 of 2020

27.02.2020

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KK/17.03.2020/ 3P- 7C