



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8455 of 2020

and

W.M.P.(MD)No.7839 of 2020

WEB COPY

S.Priyakrishnan

... Petitioner

Vs.

The Regional Passport Officer,
Municipal Water Tank Building,
W Blvd Road,
Near to Sri Kottai Muniswarar Kovil,
Marakadai,
Trichirapalli - 620 008.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondent from proceeding with an enquiry with respect to petitioner's Passport No.J9108430.

For Petitioner

: Mr.I.Abrar MD Abdullah

For Respondent

: Mr.V.Kathirvelu,

Assistant Solicitor General

Assisted by Mrs.Ragaventhre

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Assistant Solicitor General appearing for the respondent assisted by Mrs.Ragaventhre.

2.The petitioner is an Indian citizen. He is presently at U.S.A. He is said to be working as Mechanical Engineer there. The petitioner had married one Kriuthika on 20.05.2018. It appears that their marital relationship had come under strain. The petitioner had filed H.M.O.P.No.902 of 2019 before the Sub Court, Tambaram, seeking dissolution of marriage. The said Kriuthika had filed transfer petition before Principal Seat of this Court seeking transfer of the divorce proceedings from the Sub Court, Tambaram to Sub Court, Chidambaram.

3.While so, the petitioner received a E-mail communication from the respondent on 23.07.2020, calling upon the petitioner to offer explanation as to why his passport should not be impounded. The respondent in his E-mail communication has referred to a criminal case registered against the petitioner. The specific stand of the respondent is that the petitioner had suppressed the pendency of the said criminal case in his application.



4.The petitioner is said to have asked for further time but the respondent was taking steps to have the passport impounded. At this stage, this writ petition came to be filed. The writ petition was filed on 28.07.2020. It was taken up by me by way of lunch motion on 30.07.2020. I requested the learned Assistant Solicitor General to take notice for the respondent and get instructions considering the urgency of the matter. Today, i.e., 31.07.2020, the learned Assistant Solicitor General informs the Court that the petitioner's passport had been impounded on 29.07.2020. The impounding had taken place pursuant to the direction issued by the learned Judicial Magistrate No.II, Chidambaram in C.C.No.7 of 2020. It appears that non bailable warrant has also been issued against the petitioner in the said criminal case. The learned Trial Magistrate has taken cognizance of the offences under Sections 498 (A), 294(b) and 506(ii) of I.P.C., r/w. Section 4 of Tamilnadu Prohibition of Harassment of Women Act.

5.I am in full agreement with the stand of the learned Assistant Solicitor General that the respondent has not acted arbitrarily and that he has only complied with the direction of the jurisdictional criminal court. He would further state that the petitioner has to necessarily move the Court concerned for further relief.

6.No exception can be taken to the aforesaid submissions made by the learned Assistant Solicitor General but this Court has to take note of extraordinary situation now prevailing. The petitioner's counsel states that his visa is to expiry today i.e., 31.07.2020 and that in normal circumstances there would be visa extension by two more years. The petitioner is now stuck in U.S.A. The flights are not available. If the impounding of the petitioner's passport is not put on hold and visa extension is not granted, then his very stay in U.S.A. will become illegal and there is every possibility of the petitioner facing grave consequences regarding his liberty. The petitioner's counsel therefore wants me to mould the relief. He also gives a specific undertaking that the petitioner would return to India after the present lockdown restrictions are lifted and flight services between U.S.A. and India resume. He also states that thereafter the petitioner will approach the jurisdictional criminal court and pray for appropriate relief. The said Kriuthika had filed a maintenance case against the petitioner and the same is pending in M.C.No.2 of 2020 before the learned Judicial Magistrate No.II, Chidambaram. The petitioner states that from next month onwards, he will remit a sum of Rs.12,500/-. The petitioner shall arrange to remit the sum to the account of District Legal Service Authority, Cuddalore District. The District Legal Service Authority, Cuddalore District, after receipt of the remittance from the petitioner shall arrange to transfer the same to the account of M.C.No.2 of 2020, so that the services of Kriuthika can withdraw the same.



7.I am of the view that this is the best that the petitioner can do under the circumstances. This Court has to be mindful of the fact that the liberty of citizen cannot be casually jeopardised. Therefore, the writ petition is disposed of with the following directions:-

(a) The order passed by the respondent impounding the petitioner's Passport No.J9108430, pursuant to the direction given by the learned Judicial Magistrate No.II, Chidambaram, in C.C.No.7 of 2020 is put on hold.

(b) The petitioner is directed to return to India within a period of four weeks after the lifting of lockdown and other restrictions and the resumption of flight service between U.S.A. and India.

(c) The lookout circular issued against the petitioner will also not be enforced. The petitioner undertakes to appear before the learned Judicial Magistrate No.II, Chidambaram and apply for recall of N.B.W. On such application being filed, the same shall be recalled on the same day. The jurisdictional magistrate will thereafter pass further orders regarding the subject matter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

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Marakadai, Trichirapalli - 620 008.

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