



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD)No.12071 of 2020

and

WMP(MD)Nos.10388 to 10390 of 2020

WEB COPY

Jegankuttipillai @ Jegan

... Petitioner

Vs.

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

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned communications issued by the respondent herein, in File No.MD2077453439914 in letter Ref.No.IMP/309663983/20, dated 31.01.2020, and letter Ref.No.SCN/309663961/20, dated 31.01.2020 and quash the same as illegal.

For Petitioner : Mr.C.Kishore

For Respondents : Mr.S.Jeyasingh

ORDER

Heard the learned counsel on either side.

2.The petitioner was issued with a passport in the year 2004. It was renewed in the year 2014. While so, the petitioner got entangled in a criminal case. The criminal case arose out of matrimonial proceedings. The respondent originally proceeded on the premise that the petitioner has obtained renewal of the passport by suppressing the pendency of the criminal case. Therefore, communication dated 14.11.2018 was issued to the petitioner. The same was challenged in WP(MD)No.3559 of 2019. The writ petition was allowed vide order dated 30.04.2019 in the following terms :

"2.The petitioner obtained a passport in the year 2004. It was renewed in the year 2014. A criminal case came to be registered against the Writ petitioner in the year 2018. Even that criminal case has been stayed by this Court. These facts are not in dispute. While so, the respondent has issued the impugned communication calling upon the petitioner to



submit the passport with immediate effect alleging that the passport was obtained by suppression of fact. It is obvious that there is no suppression of facts on the part of the petitioner. The registration of the criminal case against the petitioner was subsequent to the renewal of passport."

Subsequently, the criminal case registered against the petitioner culminated in C.C No.115 of 2018 on the file of the Judicial Magistrate No.I, Kuzhithurai. It is seen from the records that the said proceedings have since been stayed in Crl OP(MD)No.15192 of 2018. The petitioner had to face certain unpleasant situation. But, all of them have now been set right. The position that obtains as of now is that criminal case against the petitioner stands stayed by the orders of this Court.

3.Now, a question that arises for my consideration is whether in these circumstances, the respondent is entitled to impound the petitioner's passport on the ground of pendency of the criminal case. It is true that Section 10(3)(e) of the Indian Passport Act, 1967 enables the passport authority to impound the passport if proceedings in respect of an offence alleged to have been committed by the holder is pending before the criminal court for enquiry. In other words, it is not open to the respondent to invoke the said power on account of the interim order granted by the High Court in Crl.OP(MD)No.15192 of 2018. That apart, mere existence of the statutory power will not by itself afford justification for its exercise. It is not as if the petitioner can escape from the long arm of law. It is open to the defacto complainant to move even this Court in those pending proceedings and apply for the availability of the petitioner to face the trial. In fact, this Court thought it fit to grant interim stay of the criminal proceedings.

4.In this view of the matter, the order impugned in the writ petition stands quashed. This writ petition is allowed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

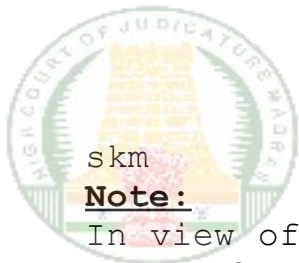
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note:

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

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

+1 CC to Mr.S. JEYASINGH, Advocate (SR-18616[F] dated
01/10/2020)

+1 CC to Mr.C. KISHORE, Advocate (SR-18659[F] dated 01/10/2020)

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SRK(CO)
KM (22.10.2020) 3P 4C