



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2020

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.14627 of 2020
and W.M.P. (MD).No.12282 of 2020

M.M.Buhari

.. Petitioner

Vs.

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

2.The Superintendent of Police,
O/o. The Superintendent of Police,
Tenkasi District.

3.The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District.

4.The Inspector of Police,
Kadayanallur Police Station,
Tirunelveli District.
(Cr. No.145 of 2013)

.. Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned order in Letter Ref.No.SCN/301905271/14 dated 21.10.2014 and quash the same as illegal.

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

For Respondents : Mrs.S.Ragaventhre for R1
Central Government Standing Counsel
Mrs.VPM.Vaishnavi for R2 to R4
Government Advocate

ORDER

(This Matter was heard through the Video Conference)

This Writ Petition has been filed challenging the show cause notice issued by the first respondent on 21.10.2014, calling

<https://hcservices.ecourts.gov.in/hcservices/>



upon the petitioner as to why his passport should not be impounded in view of the registration of FIR against him under Sections 147, 148, 294(b), 323, 332, 307 and 506(ii) of IPC in Crime No.145 of 2013.

2.Heard Mr.S.M.A.Jinnah, learned counsel for the petitioner, Mrs.S.Ragaventhre, learned Central Government Standing Counsel, appearing for the first respondent and Mrs.VPM.Vaishnavi, learned Government Advocate, appearing for the respondents 2 to 4.

3.Admittedly, the challenge has been made only to a show cause notice and no final order has been passed by the respondent. It is settled law that a show cause notice can be challenged only when it has been issued without jurisdiction and without authority under law. Admittedly, the first respondent has got the authority to issue the impugned show cause notice. Without waiting for the passing of a final order, the petitioner has preferred this writ petition prematurely. Hence, this Court is of the considered view that the present writ petition is not maintainable.

4.In the counter affidavit filed by the first respondent, the first respondent has stated that till date, the passport of the petitioner has not been impounded. Unless and until final order has been passed for impounding the passport of the petitioner, the first respondent will not impound the same.

5.However, since the petitioner has already sent a reply to the impugned show cause notice, on 14.05.2015, which is also admitted in the counter affidavit filed by the first respondent, the first respondent will have to consider the same on merits and in accordance with law before passing any final order. The petitioner must also be granted sufficient opportunity of hearing by the first respondent before any final order is passed, pursuant to the impugned show cause notice.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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

- 1.The Passport Officer, Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road, Madurai - 625 002.
- 2.The Superintendent of Police,
O/o. The Superintendent of Police,
Tenkasi District.
- 3.The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District.
- 4.The Inspector of Police,
Kadayanallur Police Station,
Tirunelveli District.

**W.P (MD) .No.14627 of 2020
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KVN(CO)
KM (18.12.2020) 3P 5C