



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2020

CORAM:

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)NO.26126 OF 2019

Ramalingam

:Petitioner

.vs.

1.The Regional Passport Officer,
Passport Office,
Thivariman Road,
Kotchadai,
Madurai.

2.The Inspector of Police,
Palani Town,
Dindigul District.

3.Balaji

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to take appropriate action against the third respondent holding passport No.K8144894, dated 9.10.2012 based on the Petitioner's representation, dated 11.7.2019 within the time stipulated by this Court.

For Petitioner : Mr.T.A.Ebenezer

For Respondent-1 : Mr.V.Kathirvelu,
Asst.Solicitor General of India
assisted by
Mr.Aayiram K.Selvakumar
Central Govt.Standing Counsel

For Respondent-2 : Mrs.J.Padmavathi Devi
Special Govt.Pleader

O R D E R

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the first respondent to take appropriate action against the third respondent holding passport No.K8144894, dated 9.10.2012 based on the Petitioner's representation, dated 11.7.2019.

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

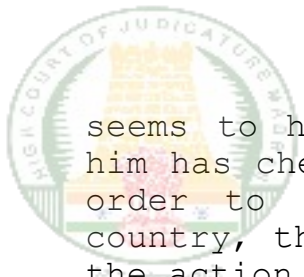


2.The Petitioner, in his affidavit, in paragraph 4 would state that on his complaint before the second respondent/Police, a First Information Report in Crime No.775 of 2016 was registered against the third respondent and his parents for the offence under Sections 294(b), 420 and 506(i) of IPC. It is also stated that after investigation is completed, the second respondent had filed a charge-sheet, which was not yet taken on file by the learned Judicial Magistrate, Palani. As there is a criminal complaint against the third respondent, the Petitioner states that he cannot be permitted to hold a valid passport and allow him to travel outside the country.

3.In response, the first respondent had filed a counter and has stated as follows in Paragraph No.6 which reads as follows:

'6.It is submitted that if the Petitioner submits the charge sheeted number if any pending trial against the third respondent before the Criminal Court of Law OR Warrant or Summons for the appearance or a Warrant for the arrest of the holder of passport has been issued by a Court under any Law for the time being in force OR if an order prohibiting the departure from India of the holder of the passport has been made by any such Court, then necessary action will be initiated against the third respondent under relevant section in the provisions of the Indian Passports Act, 1967.'

4.In the meanwhile, the second respondent, who is the Inspector of Police, Palani Town, Dindigul District has furnished the C.C.Number as against the third respondent as C.C.No.201 of 2019 before the learned Judicial Magistrate, Palani. It appears that such Calendar Case was filed only on 10.12.2019.The very same Petitioner had filed yet another Writ Petition in W.P(MD)No.2147 of 2017seeking issuance of a Writ of Mandamus directing the respondent therein/The Regional Passport Officer, Passport Office, Thuvaraman Road, Kochadai, Madurai to consider the representation, dated 10.11.2016 and pass suitable orders in deciding the validity of the passport of the accused Balaji Pandi and pass appropriate orders. The said Writ Petition was filed, based on Crime No.775 of 2016, on the file of the Inspector of Police, Palani Town Police Station which was given by the Petitioner himself for cheating him to the tune of Rs.25 lakhs. It is not stated whether the third respondent/Balaji was in India at that point of time. Even assuming that he was in India at the relevant point of time, there was only an FIR and as per which, if only an FIR is pending, the passport is normally issued to the concerned person. In the present Writ Petition also, the Petitioner has also sought for the very same relief. The only additional factor is that the charge-sheet has been filed before the learned Judicial Magistrate, Palani which is not yet taken on file. The Petitioner



seems to have claimed from the third respondent, who according to him has cheated him and his parents to the tune of Rs.25 lakhs. In order to stop the third respondent from travelling outside the country, the Petitioner has been taking all these efforts, including the action to impound his passport.

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5.It is relevant to state that the first respondent has a mechanism in place to issue the passport including that of the Police Verification. It is only after Police report has been furnished, then only the issuance of passport, renewal of passport or re-issuance of passport is done. In this case, already the third respondent is a passport-holder and is living outside the country in Abudabi. It is not the case of the Petitioner that he travelled in India and he was allowed to leave the country by the authorities without taking any action. Admittedly, the Calendar Case was filed only on 10.12.2019. The learned Assistant Solicitor General of India submits that the third respondent had not travelled to India after that and they are given the knowledge about the case being filed against the third respondent only during the pendency of this Writ Petition, when the second respondent had produced the details. Therefore, even any action including the issuance of Look-Out Circular(LOC) can be issued by the Regional Passport Officer only hereafter, on the basis of the criminal case and request from the Criminal Court for issuance of warrant or summons for the appearance or a warrant for the arrest is issued by a Court of Law. Even while the previous Writ Petition in W.P(MD)No.2147 of 2017 which was filed for the very same relief is not yet disposed of, the Petitioner has out of anxiety has filed the present Writ Petition for the very same relief, when there is no subsequent development in the case and thus the wasting the precious time of this Court.

6.In view of the above discussion, the Writ Petition stands dismissed with costs of Rs.2,500/-(Rupees two thousand five hundred only) payable by the Petitioner to the credit of Siddha Clinic attached to this Bench within a period of four weeks from the date of receipt of a copy of this order. No costs.

Post for compliance on 09.03.2020.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Regional Passport Officer,
Passport Office,
Thivariman Road,
Kotchadai,
Madurai.

2.The Inspector of Police,
Palani Town,
Dindigul District.

+1 CC to M/s.AAYIRAM K SELVAKUMAR, Advocate (SR-4825[F] dated 05/02/2020)

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-4995[F] dated 06/02/2020)

+1 CC to M/s.Special Govt. Pleader (SR-5136[F] dated 06/02/2020)

ORDER MADE IN
W.P (MD) NO.26126 OF 2019
05.02.2020

vsn

SDS (12.02.2020) 4P-6C