

**205 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 34888 of 2019 (O&M)
DATE OF DECISION : 05.11.2020**

Amit Kumar Verma

...Petitioner

Versus

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. S. S. Behl, Advocate,
 for the petitioner.

Ms. Amrita Singh, Advocate,
Panel counsel for Union of India.

Mr. Gurcharan Singh, Advocate,
for respondent No.3.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Grievance of the petitioner, *inter-alia*, herein is qua impounding of his passport by respondent No.2 vide order dated 29.04.2019 (Annexure P-9) as well as another communication of even date (Annexure P-10), both conveyed via email, vide which he was summarily informed with regard to impounding of his passport.

2. A perusal of both the impugned orders/letters dated 29.04.2019 (Annexures P-9 and P-10) respectively would show that the same are under instructions issued by the Regional Passport Office, Chandigarh. It is stated therein that the Regional Passport Office has impounded the passport of the

petitioner under Section 10 (3) (h) of the Passports Act, 1967, pursuant to an FIR No.0121 dated 12.11.2018 registered at Police Station Women Cell, District Ludhiana. The petitioner states that RPO order impounding the passport was neither conveyed to him, nor even otherwise any opportunity was granted to him before passing of the same. As a bolt from the blue, impugned letters (Annexures P-9 and P-10) were conveyed to him by the Second Secretary (Consular, High Commission of India, Wellington, New Zealand) through email.

3. Though in the petition two fold grounds have been taken i.e 1) to quash the aforesaid FIR and 2) for setting aside the orders/letters (Annexures P-9 and P-10), vide which the passport has been impounded by the office of High Commission of India. However, head note and prayer in the petition are both confined only qua impounding of the passport. Prayer clause of the petition is extracted herein below :

“(i) Issue a writ in the nature of certiorari by setting aside the order dated 29.04.2019 Annexure P-9/P-10 vide which the passport of the petitioner has been impounded without given any opportunity of hearing against the principles of natural justice.

(ii) During the pendency of the present petition the operation of impugned order Annexure P-9/P-10 may kindly be stayed so that the petitioner can travel India in order to defend his case.

(iii) Dispensed with filing of typed/certified copies of Annexures and advance service of notices upon the Respondents.

(iv) Any other orders as this Hon’ble Court may deem fit and proper may kindly be passed in the interest of justice. Costs of the petition may be awarded to the petitioner from the respondents.”

4. The petitioner has, inter alia, pleaded that FIR arises out of a purely matrimonial dispute between him and complainant/wife-respondent No.3. At the time of registering FIR at the instance of wife, she knew fully well that the petitioner was in New Zealand as on 12.11.2018.

5. Learned counsel for the petitioner argues that as per Section 10 (3) (h) of the Passport Act, neither on the relevant day any warrant or summons for appearance or a warrant for arrest was issued by any court nor any communication from Police Department was issued against the petitioner on 19.04.2019 when the impugned orders were passed. It is submitted that the action of the respondent No.2 vide which the passport has been impounded is in clear violation of Section 10 (3) (h) of the Act as such as the same is liable to be set aside.

6. Moreover, no reasoning has been recorded by the respondent No.2 before passing the order. A terse single line order has been passed informing that the passport has been impounded. Learned counsel relies on (1997) Delhi RJ 108; 2013(202) DLT 317 to contend respondent No.2 was bound to record reasoning before passing the impugned order. It is further iterated that the petitioner also gave a representation, Annexure P-1 dated 20.06.2019, to the respondent No.1 and 2 seeking opportunity before proceeding further to impound passport. However, no order has been communicated on the said representation.

7. Heard.

8. Perusal of record would reveal that the very reason of impounding of the passport was complaints/FIR filed by respondent No.3-wife of the petitioner at the relevant time. The FIR in question no doubt arises out of matrimonial discord between the petitioner and respondent No.3. The FIR allegations, *inter-alia*, are that the petitioner during subsistence of his marriage with respondent No.3, was trying to perform his second marriage in New Zealand without giving divorce to respondent No.3. There are other allegations qua harassment, beating and demand of dowry etc by the petitioner and his family.

9. On a query of the Court, learned counsel for the petitioner submits that petitioner and respondent No.3 have already settled their differences and

pursuant thereto also filed a mutual consent petition under Section 13-B of the Hindu Marriage Act. First motion has been recorded before the Family Court.

10. Aforesaid is not controverted by learned counsel for respondent No.3/wife.

11. Prima-facie, I am of the view that in view of the disputes having been amicably settled between the petitioner and respondent No.3, they have since already decided to take divorce from each other by mutual consent, in all likelihood nothing survives in the FIR anymore. Particularly, in view of the undertaking of respondent No.3 that she would withdraw all the pending litigations, both criminal and civil in view of amicable settlement leading to filing of a mutual consent petition under Section 13 of Hindu Marriage Act to dissolve the marriage between the parties.

12. In the premise, the very purpose of impounding the passport stands abated, which at the relevant time was in all probability to make the petitioner appear and subject himself to the jurisdiction of the Courts/investigation in India. Be that as it may, it is for appropriate Court to take cognizance of the same while dealing with the FIR and/or consequential proceedings arising there from and this Court would, therefore, refrain to make any comments on the merits thereof.

13. Learned counsel for respondent-Union of India under instructions also does not object to the legitimate request of the petitioner for release of his passport.

14. As an upshot of above, impugned order/letter dated 29.04.2019 (Annexure P-9) and another communication of even date contained at Annexure P-10 are set-aside. Official respondent No.2 is directed to release the passport of the petitioner forthwith, with liberty to take appropriate action at the later stage, if so warranted, in the event any adversarial criminal proceedings

are instituted in court pursuant to FIR and/or the petitioner does not submit to jurisdiction of the Court/Investigating Officer, if so required.

15. The instant order is being confined qua the release of passport, with liberty to the petitioner to seek his appropriate remedy qua quashing of the FIR, as already observed in the preceding part of my order/judgment.

NOVEMBER 05, 2020
shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No