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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.09.2021

Coram

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 10648 of 2021

Kaleem Thaseen

.. Petitioner

Versus

1.Regional Passport Office
Chennai Royala Towers, No.2 & 3,
IV Floor, Old No.785, New No.158,
Anna Salai, Chennai - 600 002.

2.The Inspector of Police,
K10, Koyambedu Police Station,
Koyambedu, Chennai District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to issue a passport to the petitioner based on his passport application in file Number MA2062888256920 dated 27.02.2020 within a stipulated time.

For Petitioner : Mr.R.Krishnan

For Respondent - 1 : Mrs. A. Anuradha,
Central Government Standing Counsel

Respondent - 2 : Mr. G. Krishnaraja,
Government Counsel

O R D E R

The present writ petition has been filed by the petitioner seeking to issue a Writ of Mandamus directing the first respondent to issue passport to him based on his application in file No.MA2062888256920 dated 27.02.2020, within a stipulated time.



2. The petitioner applied for issuance of passport with the first respondent vide Application File No.MA2062888256920 dated 27.02.2020 and his application could not be processed immediately due to COVID-19 pandemic situation. While so, the first respondent vide letter dated 04.11.2020, instructed the petitioner to submit certain documents, as per which, he submitted the documents on 04.12.2020, which were forwarded to the second respondent Police. Upon verification, the second respondent Police filed a report stating that the petitioner was shown as an Accused No.1 in First Information Report (FIR) registered in Crime No.1662 of 2017 dated 14.09.2017, under Sections 147, 447, 294(b), 353 & 506(ii) of IPC. On the basis of such report, the first respondent sent a letter dated 24.12.2020, calling upon the petitioner to give explanation with regard to the pendency of Crime No.1662 of 2017. The petitioner also sent a reply dated 12.01.2021 to the first respondent stating that the said case is pending investigation. It is further stated that mere pendency of first information report is not a bar for issuing passport to him. Despite his reply, the first respondent has not issued passport to him. In such circumstances, left with no other alternative, the petitioner has filed the present writ petition for the relief stated supra.

3. The learned counsel for the petitioner submitted that for applying passport, there was no requirement to furnish the details regarding the first information report registered against the petitioner. Even otherwise, the petitioner has submitted his explanation to the first respondent about the reasons for non-furnishing the details pertaining to Crime No.1662 of 2017 pending on the file of the second respondent. He further submitted that the Joint Secretary (PSP) & Chief Passport Officer vide Circular dated 21.08.2014, had clearly stated that passport can be issued to an applicant, against whom proceedings before the Criminal Court are pending, as per the provisions of of the GSR 570 (E) and on the basis of the order, if any passed by the Courts. The learned counsel also placed reliance on the decision of the Madurai Bench of this Court in Prabakaran vs. The Regional Passport Officer and another in WP (MD) No. 21363 of 2019 dated 04.10.2019 and prayed this Court to issue appropriate direction to the first respondent to issue passport to the petitioner.

4. On the other hand, the learned counsel for the first respondent submitted that as per Section 6 (2)(f) of the Passport Act, 1967, the passport authority shall refuse passport of the applicant, if any criminal case is pending before court and therefore, the application of the petitioner seeking passport could not be processed, due to pendency of the criminal case.



5. The learned Government Counsel appearing for the second respondent drew the attention of this court to the averments made in the counter affidavit and submitted that the investigation of the case in Crime No.1662 of 2017 against the petitioner was over and the Charge Sheet is likely to be filed before the V Metropolitan Magistrate, Egmore Court. It is also stated that there is no previous case registered against the petitioner on the file of this respondent police.

6. Heard the learned counsel on both sides and perused the materials placed before this Court.

7. Admittedly, the petitioner's application seeking issuance of passport could not be processed, by the first respondent due to pendency of the criminal case. It is submitted by the second respondent that investigation was over and the charge sheet is likely to be filed before the jurisdictional magistrate. In similar circumstances, this court in WP (MD) No. 23468 of 2017 [J. Mathanagopal v. The Regional Passport Officer, Madurai] by order dated 23.07.2018, disposed of the said writ petition in the following terms:

"21. In the result, the writ petition is allowed and the impugned order in 170000-CPC-MDU dated 02.08.2021 passed by the first respondent is set aside. The petitioner is granted to make appropriate application seeking for issuance of No Objection Certificate and for return of his passport before the concerned Judicial Magistrate, namely the Judicial Magistrate, Sivakasi before whom C.C. No. 47 of 2018, is pending and on such application, the concerned Judicial Magistrate shall pass necessary orders within two days thereafter. Consequently, the petitioner is directed to produce the No Objection Certificate, if granted by the learned Judicial Magistrate, before the first respondent and on receipt of such No Objection Certificate from the petitioner, the first respondent shall return back the passport of the petitioner forthwith. No costs. Consequently, connected miscellaneous petitions are closed."

8. In the given factual matrix, this court is inclined to dispose of this writ petition, in lines with the aforesaid order. Accordingly, the petitioner is granted liberty to make appropriate application seeking no objection certificate to the V Metropolitan Magistrate, Egmore, Chennai, before whom Cr.No.1662/2017 is pending and on such application being filed, the concerned Judicial Magistrate shall pass necessary orders



within a period of two days upon receipt of such application. Accordingly, this Writ Petition stands disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrr

To

1.The Vth Metropolitan Magistrate,
Egmore, Chennai.

2.The Regional Passport Office,
Chennai Royala Towers, No.2 & 3,
IV Floor, Old No.785, New No.158,
Anna Salai, Chennai - 600 002.

3.The Inspector of Police,
K10, Koyambedu Police Station,
Koyambedu, Chennai District.

+1cc to the Government Pleader, S.R.No.48557

WP No.10648 of 2021

BS(CO)
CB(18/10/2021)