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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2021
PRONOUNCED ON : 24.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8136 of 2021 and
Crl.M.P.No.5362 of 2021

1.Meena Sambandan

2.Ms.Ramya Varshini Gauthaman,
D/o.Gauthaman Kalamegam
E-4-1, Sreshta Fairways,
Ramamoorthy Avenue Extension,
Kolapakkam (Porur),
Chennai-600 125.
Rep. by Mrs.Meena Sambandan,
M/o.Ramya Varshini Gauthaman.

... Petitioners

Vs.

1.The State Rep. By,
Asst. Commissioner of Police,
Chit Kenduvatti FPP Team,
Central Crime Branch,
Vepery,
Chennai 600 007.

2.Sub Inspector of Police,
Fake Passport Team VII,
Central Crime Branch,
Chennai-600 007.

3.The Regional Passport Officer,
Rayala Towers,
No.2 and 3, IVth Floor,
Old No.785,
New No.158,
Anna Salai,
Chennai - 600 002.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the FIR in Crime No.94/2021, dated 29.03.2021 in the file of the Sub Inspector of Police, Fake Passport Team VII, Central Crime Branch, Chennai.



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For Petitioners : Mr.M.Palanivel
For R1 & R2 : Mr.A.Damodaran,
Government Advocate (Crl. Side)
For R3 : Mr.N.Ramesh,
Senior Panel Counsel

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.94 of 2021, dated 29.03.2021 on the file of the 2nd respondent Police.

2.The petitioners are the accused Nos.1 & 2 in Crime No.94 of 2021, which has been registered by the 2nd respondent on the complaint of the 3rd respondent for offence under Sections 12(1) (b) and 12(1A) (a) of the Passport Act, 1967.

3.The gist of the case is that the petitioners are the wife and daughter of one Gauthaman Kalamegam respectively. The 1st petitioner has applied for surrender certificate in respect of her minor daughter/2nd respondent residing at E41, Sreshta Rairways, Ramamoorthy Avenue Extention, Kolapakkam, Chennai holder of Indian Passport No.P7962303, dated 13.03.2017 who applied for surrender certificate at the Passport Office vide file No.MASSC7072334120 on acquisition of Singapore nationality. On scrutiny of her application, it was found that the 2nd petitioner acquired Singapore nationality vide certificate, dated 05.07.2012 and she is holding Singapore Passport No.K2061600A, dated 07.11.2020. She had applied for reissue of Indian Passport at Regional Passport Office, Chennai on 29.12.2016 vide file No.MA2079847990116 by suppressing her nationality and obtained Indian passport No.P7962903 issued on 13.03.2017. The copies of the application form and other documents submitted by the applicant were sent for reference. The reasons given by the petitioners regarding suppression of nationality was not convincing. As per Passport Manual, the Indian Passport holders are required to surrender their passport to the nearest Indian Mission/Passport office immediately after acquisition of foreign nationality. Indian Citizenship Act does not allow dual citizenship. The misuse of Indian Passport as described above constitutes the offence as stated above. Hence, the 3rd respondent sent a complaint to the 2nd respondent, who registered a case in Crime No.94 of 2021.

4.The learned counsel for the petitioners submitted that the 1st petitioner after completing M.C.A., worked as Software Engineer and business analyst in Aviation and Banking in



Singapore from the year 1997 to 2012. The 1st petitioner's husband and the 2nd petitioner's father Dr.K.Gauthaman is Singapore citizen and he obtained his medical graduation in Chennai and later, Ph.D., in the year 2003, from the Department of Obstetrics and Gynaecology, National University of Singapore (NUS) where he also served as a Senior Research Fellow until June 2012 and subsequently, served as Associate Professor in the Centre of Excellence in Genomic Medicine Research and Stem Cell Division at King Abdulaziz University, South Arabia until August 2020. The learned counsel further submitted that the 1st petitioner is the Indian Citizen and her husband is a Singapore Citizen. The 2nd petitioner was born to them in Singapore on 14.10.2003. When she was seven months old, she was issued with Indian Passport in No.E5426321 by the Assistant Consular Office, High Commissioner of India, Singapore on 27.05.2004 and date of expiry was on 26.05.2009. After expiry of the said passport, it was renewed by the Assistant Consular Office, High Commission of India, Singapore vide passport No.G9487512 on 15.12.2008 and date of expiry was on 14.12.2013. Again, it was renewed by the Assistant Consular Office, High Commissioner of India, Singapore vide passport No.K4683991, dated 17.04.2012 and date of expiry was on 16.04.2017. After expiry of the same, it was renewed by the Regional Passport Office, Chennai vide passport No.P7962903, dated 13.03.2017 and the date of expiry was on 13.10.2021. In the meanwhile, the Republic of Singapore issued a 'Certificate of Singapore Citizenship' vide Citizenship Certificate No.T0329198C, dated 05.07.2012.

5.The learned counsel for the petitioners further submitted that the 2nd petitioner completed 12th Std in India and she wanted to continue her further studies in Singapore. Hence, the 2nd petitioner applied for Singapore passport and the same was issued on 07.11.2020. Due to the COVID-19 pandemic, she could not immediately receive Singapore passport and thereafter, on 11.12.2020, the 2nd petitioner received the Singapore passport. On 12th and 13th December, 2020 being the weekend, on 14.12.2020 the 1st petitioner and her husband applied to surrender the Indian passport on 14.12.2020 to the 3rd respondent. After receiving the Singapore passport of the 2nd petitioner, the 1st petitioner applied for surrender of the Indian passport No.P7962903 even before its expiry date. The 2nd petitioner received Singapore passport only on 11.12.2020.

6.The learned counsel for the petitioners further submitted that the petitioners did not commit any act in violation of law. After obtaining Singapore passport for the 2nd petitioner, the 1st petitioner immediately applied to surrender the Indian passport on 14.12.2020. From the particulars submitted, it is apparent that there is no suppression of nationality. The only allegation is that the petitioners have not filed surrender



application after receiving Singapore nationality certificate of the 2nd petitioner on 05.07.2012 and subsequently, applied for re-issuance of passport on 29.12.2016 and received the passport No.P7962903. He further submitted that the 2nd petitioner applied for her higher education in the National University of Singapore, National University of Singapore-Yale University, Nanyang Technological University, Singapore Management University and other institutions and hence, she has to proceed to Singapore to further pursue and join institution without any delay.

7.Further, from the official website of the High Commission of India, Singapore announcements, it could be seen that "An Indian national, including a minor, on acquisition of foreign nationality and passport, is not entitled to retain his/her Indian Passport and has to immediately surrender his/her passport for cancellation." As per the announcement, the 2nd petitioner surrendered the Indian passport after acquiring Singapore passport. If there is any violation, only fine to be imposed. In this case, admittedly, the 2nd petitioner did not travel using Indian passport after receipt of Singapore passport. While being so, the question of holding dual passport does not arise. Admittedly, while applying for the 2nd petitioner's passport and for renewal, there is no suppressions of facts and no wrong particulars given. The 2nd petitioner, till date, is a minor. The first passport of the 2nd petitioner was obtained when she was seven months old and the renewals thereof when she was minor. Hence, he prayed for quashing of FIR against the petitioners.

8.The learned Government Advocate (Crl. Side) appearing on behalf of the respondents 1 and 2 filed counter and submitted that a complaint was received from the 3rd respondent on 01.01.2021 along with the file pertaining to the issuance of the passport to the 2nd petitioner. On scrutiny of the file, it was found that the 2nd petitioner acquired Singapore Nationality vide certificate No.T0329198, dated 05.07.2012. The 2nd petitioner applied for reissue of Indian passport at Regional Passport Office, Chennai on 29.12.2016 by suppressing her nationality and obtained Indian passport No.P7962903, dated 13.03.2017, which is valid up to 13.10.2021. She obtained Singapore passport No.K2061600, dated 07.11.2020. Thus, the materials and documents would prove that the petitioner had committed the offence under Sections 12(1)(b) and 12(1A)(a) of the Passport Act, 1967 and hence, a case in Crime No.94 of 2021 was registered by the 2nd respondent.

9.The learned Government Advocate (Crl. Side) further submitted that in this case, the investigation commenced, witnesses examined and their statements recorded. The 2nd



petitioner is a juvenile delinquent born in Singapore on 14.10.2003. The first passport was applied when she was seven months old and same was issued by the Assistant Consular Office, High Commission of India, Singapore, which has been periodically renewed and finally, the last renewal was on 13.03.2017. It is further submitted that the petitioners had suppressed her acquired Singapore nationality and obtained Indian passport. In this case, there are enough materials to proceed with the investigation and hence, he opposed the Quash Petition.

10.The learned counsel for the 3rd respondent filed counter, reiterating the complaint and issuance of passport and submitted that the 2nd petitioner was born in Singapore in the year 2003 and her parents declared that the 2nd petitioner does not hold passport of any other country. Hence, the 2nd petitioner was issued Indian passport No.E5426321, dated 27.05.2004 by the High Commission of India, Singapore. Thereafter, her passport was renewed periodically and the last passport No.P7962903 was issued on 13.03.2017. Prior to this date, she obtained Certificate of Singapore Citizenship No.T0329198C, dated 05.07.2012. As per Section 9(1) of the Citizenship Act, 1955, she ceases to be a citizen of India from 05.07.2012 and has placed herself under legal obligation to surrender her Indian passport with mission concerned for cancellation of Indian passport. However, she has failed to comply with legal requirement. On the contrary, she renewed the said passport vide No.P7962903, dated 13.03.2017 by suppressing the information that she obtained Singapore Citizenship on 05.07.2012. The Government of India vide Ministry of Home Affairs Ref.No.26030/12/2008-IC of June 2008 clarified that a person who applied for citizenship of another country can hold an Indian Passport till his request for citizenship of another country is accepted and granted to him/her. The day he/she is granted citizenship of another country, he/she ceases to be a citizen of India from that day, under Section 9(1) of the Citizenship Act, 1955 and he/she has to surrender his/her Indian Passport with the concerned Mission abroad for cancellation. In this case, it has not been done so.

11.The learned counsel for the 3rd respondent further submitted that the petitioners are well aware of the legal consequence for retaining of the Indian Passport on acquisition of Singapore Nationality. On the complaint of the 3rd respondent, a case in Crime No.94 of 2021 was registered on 29.03.2021, wherein investigation commenced and the 3rd respondent handed over relevant records in aid of investigation. At this stage, short-circuiting the investigation by quashing of FIR does not arise.



16.The 2nd respondent's Indian passport was surrendered by her parents immediately after receipt of Singapore Passport. If the Indian passport of the 2nd petitioner surrendered to the High Commission of India, Singapore, no ground for criminal case and only penalty could be levied. The petitioners honestly disclosed the fact and not suppressed anything in this case. The Police on the complaint left with no other option registered the above case. The petitioners were honest in furnishing the particulars and declaration made before the Passport authorities. Hence, on the facts of the case it cannot be termed as suppression. The 2nd petitioner is a minor girl and the 1st petitioner is her mother. Both have not come on adverse notice by any of the Law Enforcing Agency sofar. From the guidelines of the High Commission of India, Singapore, it is found that "An Indian national, including a minor, on acquisition of foreign nationality and passport, is not entitled to retain his/her Indian Passport and has to immediately surrender his/her passport for cancellation." In this case, admittedly, the 2nd petitioner obtained Singapore citizenship on 05.07.2012 and she was issued with the Singapore passport on 07.11.2020 and received on 11.12.2020 and thereafter, within two days, it was surrendered to the Regional Passport Office, Chennai. The condition is that on accusation of foreign nationality and passport, not eligible to retain the Indian passport. In this case, Singapore citizenship was acquired on 05.07.2012 and Singapore passport was obtained on 07.11.2020. Thereafter, the Indian passport of the 2nd petitioner was surrendered without any delay. One thing is certain that after obtaining Singapore passport, the 2nd petitioner not used her Indian passport. Further, the paramount consideration is that the 2nd petitioner was a minor through these periods. Hence, the vicarious liability is unknown in criminal jurisprudence.

17.In view of the above, the continuation of investigation against the petitioners is of no consequence. Hence, the FIR in Crime No.94 of 2021 is liable to be quashed and, is hereby quashed. This Criminal Original Petition is, accordingly, allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner of Police,
Chit Kenduvatti FPP Team,
Central Crime Branch,
Vepery,
Chennai 600 007.

2.The Sub Inspector of Police,
Fake Passport Team VII,
Central Crime Branch,
Chennai-600 007.

3.The Regional Passport Officer,
Rayala Towers,
No.2 and 3, IVth Floor,
Old No.785,
New No.158,
Anna Salai,
Chennai - 600 002.

4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.M.Palanivel, Advocate, S.R.No.49280

Crl.O.P.No.8136 of 2021

SV-I (CO)
CB(05/10/2021)