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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NOS.22524 & 22527 OF 2021

Soundirarasu Ramasamy

... Petitioner in
Crl.O.P.No.22524 of 2021

Suguna Soundirarasu

... Petitioner in
Crl.O.P.No.22527 of 2021

Versus

1. The Regional Passport Officer
First Floor, Corporation Shopping Complex,
Avinashi Road, ATT Colony,
Opp. Thandumariamman Koil,
Coimbatore - 641 018.

2. The Inspector of Police,
Suramangalam Police Station,
Tharamangalam Main Road,
Suramangalam, Salem - 636 005.

3. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Salem.

(R3 suo-motu impleaded as per
orders dated 06.12.2021 in
Crl.O.P.No.22524 & 22527 of 2021)

... Respondents

PRAYER IN CRL.O.P.NO.22524 OF 2021:-

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the impugned communication/letter in Letter Reference No.SCN/311243887/21 dated 27.09.2021 issued by the first respondent which was issued based on the police verification report of the second respondent and quash the same as bad in law and consequently, direct the first respondent to issue passport to the petitioner vide Application No.CB1063512570521 dated 12.08.2021 within time frame stipulated by this Court.



PRAYER IN CRL.O.P.NO.22527 OF 2021:-

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the impugned communication/letter in Letter Reference No.SCN/311243887/21 dated 27.09.2021 issued by the first respondent which was issued based on the police verification report of the second respondent and quash the same as bad in law and consequently direct the first respondent to issue Passport to the petitioner vide Application No.CB106351267521 dated 12.08.2021 within time frame stipulated by this Court.

For Petitioners in : Ms.G.Thilakavathy
both Crl.O.P.Nos. Senior Counsel
For Mr.B.Sivaraman

For Respondents in : Mr.V.T.Balaji for R1
both Crl.O.P.Nos.
Mr.Raj Thilak
For R2 & R3
Additional Public Prosecutor

COMMON ORDER

Crl.O.P.No.22524 of 2021 has been filed to call for the records in connection with the impugned communication/letter in Letter Reference No.SCN/311243887/21 dated 27.09.2021, issued by the first respondent, on the basis of the verification report of the second respondent Police and quash the same as bad in law and consequently, direct the first respondent to issue passport to the petitioner vide Application No.CB1063512570521 dated 12.08.2021 within the time frame stipulated by this Court.

2. Crl.O.P.No.22527 of 2021 has been filed to call for the records in connection with the impugned communication/letter in Letter Reference No.SCN/311243887/21 dated 27.09.2021 issued by the first respondent on the basis of the second respondent police verification report and quash the same as bad in law and consequently direct the first respondent to issue Passport to the petitioner vide Application No.CB106351267521 dated 12.08.2021 within time frame stipulated by this Court.

3. In continuation and conjunction to the orders passed by this Court on 06.12.2021 & 15.12.2021, which read as follows:



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"The petitioner in Crl.O.P.No.22524 of 2021 is the Regional Transport Officer and the petitioner in Crl.O.P.No.22527 of 2021 is the wife of the said Regional Transport Officer, who was posted at Namakkal. A was registered against the petitioners for the offence under Section 13 (2) r/w 13 (1) (e) of the Prevention of Corruption Act, 1988. The check period, i.e., from 01.01.2002 to 31.03.2004, the petitioners are said to have acquired assets beyond their known source of income, for which, they are unable to give possible explanation. On completion of investigation, charge sheet was filed and the same was taken on file in Spl.C.Cr.No.9/AC/2005/SL/SU, which is pending trial before the Special Judge (for Corruption cases), Salem. The petitioners filed a discharge petitions before the Lower Court in Crl.M.P.Nos.76 & 87 of 2014 and both petitions dismissed, as against which, they filed Criminal Revision Petition in Crl.R.C.Nos.702 & 703 of 2016. This Court by the order dated 27.04.2017 had allowed the Revision Petition and thereby discharged the petitioners from the criminal case. Thereafter, the petitioners applied for passport to attend marriage of their son, who is now settled in USA. At the time of verification by the 2nd respondent, the pendency of Criminal Case before the Hon'ble Apex Court found which was not disclosed by the petitioners. Hence, a show cause notice letter in Ref.No.SCN/311211591/21 dated 17.09.2021 issued to the petitioners stating that a case is pending against them before the Hon'ble Supreme Court in Special Leave to Appeal (Criminal) Nos.3445 & 3446 of 2019. Further the petitioners not stated the same hence, passport authorities refused to process and grant passport to the petitioners. Hence the above petition.

2. The learned Additional Public Prosecutor submitted that a vigilance case against the petitioners registered and later they got discharged, as against which, the Vigilance Department had gone for an appeal before the Hon'ble Supreme Court which is pending. Hence, this Court is of the view that arraying the Deputy Superintendent of Police, Vigilance and Anti Corruption, Salem as third respondent is necessary. Hence, the Deputy Superintendent of Police, Vigilance and Anti Corruption, Salem, is Suo-motu impleaded as third respondent. The Additional



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Public Prosecutor takes notice for the newly impleaded respondent.

3. Mr.V.I.Balaji, the learned counsel for the first respondent submitted that already a Writ Petition W.P.No.21823 of 2021 filed, in which, the first respondent filed their counter, which is at Page.No.63 of the typed set of papers and the same is adopted. To that effect, memo to be filed. Further submitted passport may be given for short duration, i.e., for a period of one year or so, with certain conditions.

4. At this juncture, the learned Additional Public Prosecutor seeks small accommodation for getting instructions, file a status report with regard to stage of case before the Hon'ble Apex Court."

"Today the status report has been filed by the Inspector of Police,Vigilance and Anti Corruption, Salem in which it is submitted that, against the order of the Hon'ble High Court, Madras in Criminal Revision case Nos.702 and 703 of 2016 the Special Leave Petition was filed on 24.12.18 before the Hon'ble Supreme Court of India, New Delhi in SLP (Crl.) No.3445 and 3446/2019 by prosecution, against A-1 Tr. Soundarasu, MVI Gr.I, O/o the RTO NKL and his wife petitioner / A-2 Tmt. Suguna with the permission of the AddL. Chief Secretary to Govt. Home (Tr.II) Dept Secretariat CNI in Lr No. RC.227/05/TPT/SL/SU, dated 22.2.2018. He further submitted that, the Special Leave petition is pending before the Hon'ble Supreme Court in SLP (Crl.) No.3445 and 3446/2019, dated 11.04.2019. The Hon'ble Supreme Court heard the matter and issued the notice to the respondents and they filed the counter affidavit. The petition was likely to be listed on 03.01.2022 for further proceedings.

2. The learned counsel for the petitioner submitted that they need to travel to Indonesia to attend the marriage of their only son fixed with an Indonesian girl, by name Miss.Ni Komang Aris Apriani, who is living in Poh Bergong, Banjar Dinas Bergong, Buleleng Regency, Singaraja, Bali, Indonesia. It is submitted that the marriage was originally fixed to take place in Bali at Indonesia between 16th November, 2021 and 15th December, 2021 (Tamil Month of Karthigai).



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3. In view of the same, they need their passport to travel to Indonesia for attending the marriage of their only son. The petitioners to furnish by way of affidavit, the likely date of departure, arrival, place of stay in Indonesia, address and contact details."

4. Today, as per the order of this Court, dated 15.12.2021, both the petitioners filed affidavits, mentioning the date of departure and arrival, place of stay at Indonesia and contact details in Para Nos.4 & 5, which are extracted hereunder:

"4. As per the direction of the Hon'ble Court dated 15.12.2021, my departure, arrival, place of stay at Indonesia and contact details are as follows:

(a) The date of departure and arrival:- The date of departure will tentatively be fixed between 15th of January, 2022 and 30th April, 2022.

I intend to leave for the marriage which is tentatively fixed between the above said dates within four weeks from the receipt of my Passport. Similarly, after the marriage I intend to return to India within four weeks thereafter.

(b) Place of Stay of Indonesia:- Banjar Dinas, Bergong, Desa poh Bergong, Kec.Buleleng, Buleleng, Bail, Indonesia.

(c) Contact details:- +62 819-9988-2426.

5) I am a law abiding citizen and that the present visit is for a temporary purpose on the occasion of my son's marriage and that I have no intention to stay at Indonesia."

5. In view of the same, the order impugned in these petitions, viz., letter in Letter Reference No.SCN/311243887/21 dated 27.09.2021 issued by the first respondent is quashed. Consequently, this Court directs the first respondent to issue passport to the petitioners for a period of one year, by considering their applications dated 12.08.2021 in Application Nos.CB1063512570521 and CB106351267521.



6. With the above directions, these Criminal Original Petitions are disposed of.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dna

To

1. The Regional Passport Officer,
First Floor, Corporation Shopping Complex,
Avinashi Road, ATT Colony,
Opp. Thandumariamman Koil,
Coimbatore - 641 018.
2. The Inspector of Police,
Suramangalam Police Station,
Tharamangalam Main Road,
Suramangalam,
Salem - 636 005.
3. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Salem.
4. The Public Prosecutor
High Court, Madras.

+2ccs to Mr.B.Sivaraman, Advocate, S.R.No.67890
+1cc to Mr.V.T.Balaji, Advocate, S.R.No.68495

CRL.O.P.NOS.22524 & 22527 OF 2021

BP(CO)
PBS/27/12/2021