



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD) Nos.3149 & 3152 of 2021

and W.M.P.(MD) Nos.2501 & 2503 of 2021

(Through Video Conference)

Antony Abishek Ravindran ... Petitioner in W.P.(MD)
No.3149 of 2021

Ribose Francis ... Petitioner in W.P.(MD)
No.3152 of 2021

Vs.

1) Regional Passport Office,
Madurai Bharathi Ulla Veethi,
Race Course Road,
Madurai 625 002
Tamil Nadu

2) The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Thirunelveli District. ... Respondents in both W.P's

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to issue Passports to the petitioners based on their applications for Passport issued in File Nos.MD2063222543721 and MD2062469417719 dated 22.01.2021 and 26.09.2019 respectively.

In both the cases:

For Petitioners : Mr.L.P.Maurya
For R-1 : Mrs.L.Victoria Gowri,
Assistant Solicitor General

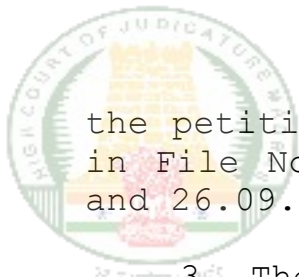
For R-2 : Mr.S.Angappan,
Government Advocate

C O M M O N O R D E R

Since the issue involved in both the writ petitions are one and the same, they are disposed of by this common order.

2. These Writ Petitions have been filed for the issue of Writ of Mandamus directing the first respondent to issue Passports to

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



the petitioners based on their applications for Passport submitted in File Nos.MD2063222543721 and MD2062469417719, dated 22.01.2021 and 26.09.2019 respectively.

3. The case of the petitioners is that the petitioners have made applications before the first respondent in File Nos.MD2063222543721 and MD2062469417719 dated 22.01.2021 and 26.09.2019 respectively. Separate show cause notices, dated 02.02.2021 and 15.02.2020 were issued by the first respondent to the petitioners informing the petitioners that there is an F.I.R. pending in crime No.158 of 2018, on the file of the second respondent and the petitioners are shown as accused in the F.I.R. and therefore, explanations were sought for from the petitioners. The petitioners gave their explanations on 23.03.2021. Since there was no response, the present writ petitions have been filed before this Court.

3. Heard Mr.L.P.Maurya, learned counsel for the petitioners, Mrs.L.Victoria Gowri, learned Assistant Solicitor General for the first respondent and Mr.S.Angappan, learned Government Advocate appearing for the second respondent.

4. The learned Government Advocate appearing on behalf of the second respondent submitted that the F.I.R. is pending investigation and there are totally 45 accused persons in this case and the petitioner in W.P.(MD) No.3149 of 2021 has been arrayed as Accused (rank not known) and the petitioner in W.P.(MD) No.3152 of 2021 has been arrayed as Accused No. 39.

5. The learner Assistant Solicitor General appearing on behalf of the 1st respondent submitted that the first respondent will consider the explanations given by the petitioners and thereafter, take a decision in accordance with law.

6. The learned counsel for the petitioners placed reliance upon two judgments of this Court and they are:

- (a) **W.Jaihar William vs State of Tamil Nadu** reported in (2014) 2 CWC 684; and
- (b) **Subbiah Vellakannuswamy vs. the Regional Passport Officer and another** in W.P.(MD) No.6881 of 2017, dated 28.04.2017.

7. The learned counsel for the petitioners by placing reliance upon the above judgments submitted that, a mere pendency of an F.I.R. cannot be construed as pendency of criminal proceedings and therefore, there is no bar for the 1st respondent to issue Passports based on the applications submitted by the petitioners.



8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. The short issue that arises for consideration is as to whether the applications submitted by the petitioners for issuance of the Passports can be considered by the first respondent in the light of the F.I.R. pending against the petitioners, which is at the stage of investigation before the second respondent.

10. The law on this issue is no longer *res integra* and it is squarely covered by the judgments cited by the learned counsel for the petitioners. This Court after taking into consideration the entire law on the subject, came to a conclusion that pendency of criminal proceedings will commence only after a final report is filed before the concerned Court and the same is taken cognizance. The mere pendency of an F.I.R. against a person cannot be construed as pendency of criminal proceedings and the same cannot be a bar for the first respondent to consider the applications for issuance of the Passports.

11. In view of the above settled preposition, there shall be a direction to the first respondent to consider the applications submitted by the petitioners for issuance of the Passports, in line with the order passed in these writ petitions and the Passports shall be issued within a period of six(06) weeks from the date of receipt of a copy of this order.

12. The petitioners are directed to make a fresh representation to the 1st respondent along with all relevant documents and also a copy of this order.

13. These Writ Petitions are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

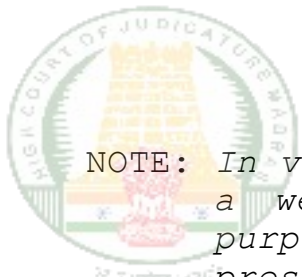
Assistant Registrar(CO)

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Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To:

- 1) The Regional Passport Office,
Madurai Bharathi Ulla Veethi,
Race Course Road,
Madurai 625 002
Tamil Nadu
- 2) The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Thirunelveli District.

+1 CC to M/s.SPL GP (SR-17157[F] dated 22/04/2021)

+2 CC to M/s.L.P.MAURYA, Advocate (SR-17251 & 17253[F] dated 23/04/2021)

Common Order made in
W.P. (MD) Nos.3149 & 3152 of 2021

Dated: 21.04.2021

AC(CO)
TR(28.04.2021) 4P 6C