



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.4414 of 2021
(Through Video Conference)

WEB COPY

Samaya

...Petitioner

Vs.

1) The Regional Passport Officer,
Bharathi Ulla Veethi,
Race Course Road, Madurai.

2) The Inspector of Police,
Thiruppalaikudi Police Station,
Ramanathapuram District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent herein to reissue of passport by scrutinizing the petitioners Application File No. MD1073030645920 and consider her explanation dated 07.10.2020 for the letter issued by 1st Respondent vide Ref. No. SCN/310231221/20 dated 05.10.2020 within a time stipulated by this Court.

For Petitioner : Mr.D.Balamuruganpandi

For R-1 : Mrs.L.Victoria Gowri,
Assistant Solicitor General of india

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

O R D E R

This Writ Petition has been filed for the issue of Writ of Mandamus directing the first respondent to re-issue the passport to the petitioner after scrutinizing the application submitted by the petitioner and the explanation given by the petitioner on 07.10.2020.

2. The case of the petitioner is that the petitioner was issued with the passport in the year 2011 for a period of 10 years and the passport expired on 22.02.2021. The petitioner made an application for renewal of the passport to the first respondent. At that point of time, the first respondent informed the petitioner that there is an F.I.R. pending in crime No.205 of 2019, on the file of the second respondent and the petitioner is shown as an accused in this F.I.R. and therefore, an explanation was sought for, from the petitioner. The petitioner gave his explanation on 07.10.2020. Since there was



no response, the present writ petition has been filed before this Court.

3. Heard Mr.D.Balamuruganpandi, learned counsel for the petitioner, 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 8 accused persons in this case and the petitioner has been arrayed as Accused No.2(A-2).

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

6. The learned counsel for the petitioner 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 petitioner 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 re-issue the passport based on the application submitted by the petitioner.

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 application submitted by the petitioner for re-issuance of the passport can be considered by the first respondent in the light of the F.I.R. pending against the petitioner, 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 petitioner. 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 application for re-issuance of



the passport.

11. In view of the above settled preposition, there shall be a direction to the first respondent to consider the application submitted by the petitioner for re-issuance of the passport, in line with the order passed in this writ petition and the passport shall be re-issued within a period of six(06) weeks from the date of receipt of a copy of this order.

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

13. The writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.*

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To:

1) The Regional Passport Officer,
Bharathi Ulla Veethi,
Race Course Road, Madurai.

2) The Inspector of Police,
Thiruppalaikudi Police Station,
Ramanathapuram District

+1 CC to M/s.SPL GP (SR-16052[F] dated 16/04/2021)

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-16084[F] dated 16/04/2021)

Order made in
W.P. (MD) No.4414 of 2021

Dated:
15.04.201