



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2021**

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8436 of 2021

Sheik Mohamed

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office,
Madurai.

2.The Inspector of Police,
All Women Police Station,
Palayamkottai,
Tirunelveli.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the first respondent to renew and reissue the petitioner's passport issued vide passport No.J7426292 by considering the petitioner's renewal application dated 25.01.2021 and consequential explanation offered by the petitioner dated 23.03.2021 within the period that may be stipulated by this Court.

For Petitioner : Mr.R.Gandhi

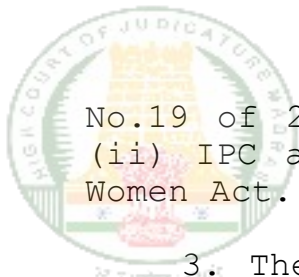
For Respondents : Mr.T.Thirupathi,
Central Govt. Standing counsel (For R1)

Mr.M.Lingadurai
Government Advocate (For R2)

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the first respondent to renew and reissue the passport of the petitioner, by considering the renewal application submitted by the petitioner on 25.01.2021.

2. The case of the petitioner is that he is working as a Mechanical Engineer in Saudi Arabia. A passport was issued to him in the year 2011 and it is valid up to 24.07.2021. The petitioner got married in the year 2003 and there was also a girl child born out of the said wedlock. There was some misunderstanding between the petitioner and his wife and the same resulted in a criminal case registered against the petitioner and his family members in Crime



No.19 of 2015, for offences under Sections 498(A), 294(b) and 506 (ii) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

3. The petitioner filed a quash petition before this Court in CrI.O.P(MD)No.1882 of 2016 and during the pendency of this petition, a final report came to be filed and the same has been challenged by the petitioner and his family members in CrI.O.P.(MD)No.3016 of 2021 before this Court and the same is pending and it is stated that this Court has passed an interim order dispensing with the appearance of the petitioner and others and permitted them to be represented through a counsel.

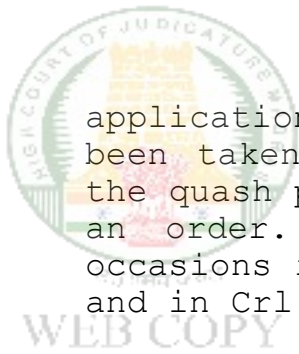
4. The petitioner made an application for renewal of passport on 25.01.2021. Since the same was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.

5. The first respondent has filed a counter affidavit. It is stated in the counter affidavit that the petitioner had suppressed the material fact by concealing the pendency of the criminal case. Hence, a show cause notice was issued to the petitioner on 16.02.2021 and an explanation was also given by the petitioner on 23.03.2021 by informing the first respondent that a quash petition is pending before this Court. It is further stated in the counter affidavit that the passport cannot be renewed, unless the criminal case against the petitioner is disposed of or the petitioner gets an appropriate order in this regard from the concerned Court.

6. Heard Mr.R.Gandhi, learned counsel appearing for the petitioner, Mr.T.Thiurpathi, learned Central Government Standing Counsel appearing for the first respondent and Mr.M.Lingadurai, learned Government Advocate appearing for the second respondent.

7. This Court has carefully considered the submissions made on either side and the materials available on record. It seems that after the FIR was registered in Crime No.19 of 2015, the matrimonial relationship between the parties came to an end and it was dissolved and thereafter the wife of the petitioner got married to another person and the petitioner also got married to another woman. A petition to quash the proceedings has also been entertained by this Court and the presence of the petitioner and his family members has been dispensed with and they have been permitted to be represented through a counsel.

8. As rightly contended by the learned Central Government Standing Counsel appearing on behalf of the first respondent, where a criminal case is pending before a Court, passport can be renewed only if the applicant obtains necessary orders from the concerned Court permitting to depart from India. Therefore, under normal



application before the concerned Court, where the final report has been taken cognizance. However, since this Court has entertained the quash petition, it will also be open for this Court to pass such an order. In fact, such orders have been passed on earlier occasions in Crl.O.P.(MD)Nos.8618 and 8619 of 2018, dated 03.04.2018 and in Crl.O.P.(MD)No.7220 and 3983 of 2019, dated 07.06.2019.

9. The learned counsel for the petitioner submitted that the presence of the petitioner has been dispensed with and he has been represented by a counsel. As and when the presence of the petitioner is insisted by the Court, he will be present without fail.

10. Taking into consideration the facts and circumstances of the case, this Court is of the view that it will serve the interest of justice, if "no objection" is granted to the petitioner for the renewal of his passport.

11. In view of the above, there shall be a direction to the first respondent to renew the passport of the petitioner in accordance with the relevant rules. The earlier passport issued to the petitioner will expire on 24.07.2021. Therefore, the first respondent shall proceed to renew the passport before the expiry of the period.

12. This Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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.

To

1.The Regional Passport Officer,
Regional Passport Office,
Madurai.



2.The Inspector of Police,
All Women Police Station,
Palayamkottai,
Tirunelveli.

+1 CC to M/s.R.GANDHI, Advocate (SR-20013[F] dated 23/06/2021)

+2 CC to M/s.T.THRIUPATHY, Advocate (SR-20058[F] dated 24/06/2021)

+1 CC to M/s.SPL GP (SR-20164[F] dated 24/06/2021)

W.P. (MD) .No.8436 of 2021
23.06.2021

AC (CO)

TR(30.06.2021) 4P 7C