



WEB COPY

WP(MD)No.17922 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P(MD)No.17922 of 2020

Kannan

... Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office,
Bharatahi Ula Veethi,
Race Course Road,
Madurai - 625 002.

2.The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the respondents, more particularly the 1st respondent to give back the passport in passport No.R9947018 to the petitioner seized by the Bureau of immigration, Trivandrum International Airport on 28.02.2020 on the basis of the instructions issued by the 1st respondent within a time frame.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.R.Senthil Kumar,

No.1 Central Government Standing Counsel

For Respondent : Mr.C.Ramesh,

No.2 Special Government Pleader

ORDER

The case of the petitioner is that he was in possession of passport issued by the 1st respondent valid from 25.04.2018 to 24.04.2018, the passport being No.R9947018.

2.Originally the petitioner was having a passport and on its expiry the present passport had been issued to him on 25.04.2018. The petitioner was employed in Dubai for a period of four years. On 28.02.2020 he returned to India via Tiruvandrum International Airport. The petitioner's passport was seized at the Airport by the Bureau of Immigration. Thereafter a written communication was issued confirming the seizure of his passport and the petitioner was directed to approach the 1st respondent for getting back his



passport.

3. On arrival of the petitioner in his home town, the 1st respondent vide communication dated 26.06.2018 and 14.08.2018 issued show cause notices by directing him to give explanation as to why he has suppressed the pending criminal case against him, registered on the file of the 2nd respondent in Crime No.119 of 2018 for the offences under Sections 341, 294(b), 342, 323 and 506 (ii) of the Indian Penal Code. The petitioner came to know of this when the show cause notices were issued to him it transpired that when the passport came to be renewed, the 1st respondent sought Police verification from the 2nd respondent and they were informed about the pendency of the criminal case against the petitioner at FIR stage.

4. Notice was ordered in this writ petition. Mr.R.Senthil Kumar, learned Standing Counsel entered appearance on behalf of 1st respondent and Mr.C.Ramesh, learned Special Government Pleader entered appearance on behalf of 2nd respondent.

5. The 1st respondent has filed a counter affidavit. As far as the 1st respondent is concerned, in the counter affidavit the pendency of the crime No.119 of 2018 is confirmed which was the reason for impounding and not returning of the passport. The 2nd respondent was directed to ascertain as to the status of the criminal case pending against him, in response to the contention of the petitioner that mere pendency of FIR is not a bar for returning of the passport.

6. Mr.Ramsesh, Special Government Pleader would submit today that 2nd respondent has closed the case as mistake of fact and the same was also submitted to the Magistrate concerned. A copy of the communication of the 2nd respondent has also been produced by the Special Government Pleader, in which it is mentioned that after thorough investigation, the 2nd respondent found that there was no case against the petitioner and hence it was closed as mistake of fact.

7. From the above factual narrative it can be seen that as on date there is no case pending against the petitioner authorising the 1st respondent to retain the petitioner's passport with him any further, as the basis of the impounding of the petitioner's passport has been removed in view of the above submission made on behalf of the second respondent.

8. The learned Counsel for the petitioner would submit that the petitioner has to return to the place of work abroad and in view of the impounding of the passport, he is unable to travel abroad, resulting in snatching away the only livelihood of his and his family.



9. In consideration of the above this Court finds it is not fair to impound the passport when the case registered against the petitioner was pending at FIR stage and that too being closed as mistake of fact after investigation. That being the facts, impounding of the passport appears to be unwarranted and uncalled for. In any case, the fact of the matter is that today there is no obvious criminal case pending against him, as the counter affidavit filed on behalf of the 1st respondent disclosed only the case in Crime No.119 of 2018 on the file of the 2nd respondent, which has since been closed as mistake of fact.

10. In view of the above stated circumstances, this Court does not think that there is any legal impediment for the 1st respondent for revoking of the impounding of the passport of the petitioner and for returning the same to him.

11. In such view of the matter the writ petition stands allowed and the 1st respondent is directed to return the passport bearing No.R9947018 to the petitioner seized by them on 28.02.2020 forthwith but not later than one week from the date of receipt of a copy of this order. No costs.

SD

ASSISTANT REGISTRAR (RECORDS)

TRUE COPY

/05/2021

SUB ASSISTANT REGISTRAR (CS)

dsk

To

1. The Regional Passport Officer,
Regional Passport Office,
Bharatahi Ula Veethi,
Race Course Road,
Madurai - 625 002.

2. The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.

1CC TO THE SPL GOVT PLEADER SR 14336
1CC TO MR. R.SENTHILKUMAR, ADVOCATE SR 14381
1CC TO MR. D. VENKATESH, ADVOCATE SR 14823

TR

03/05/2021

3P/7C

W.P (MD) No.17922 of 2020

29.03.2021