

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.101+202

**CM Nos.9357 & 9369-CWP-2021 in/and
CWP No.10977 of 2021
DATE OF DECISION: July 30, 2021**

SUKHDEEP SINGH

..PETITIONER

VERSUS

UNION OF INDIA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Ms. Reena Chaudhary, Advocate for
Mr. Sandeep Gors, Advocate, for the petitioner.

Ms. Monica Chawla, Advocate, for the respondents.

SUDHIR MITTAL, J. (ORAL)

CM-9357-CWP-2021

This application has been filed for placing on record reply
along with Annexures R-1 to R-4.

The application is allowed and reply along with Annexures R-1
to R-4 is taken on record.

CM-9369-CWP-2021

Allowed as prayed for.

CWP-10977-2021

The petitioner is the holder of a valid Indian passport. In the
year 2017, he got married with Poonampreet Kaur with whom relations have

**CM Nos.9357 & 9369-CWP-2021 in/and
CWP No.10977 of 2021**

soured. On her complaint, FIR No.25, dated 26.05.2018 under Sections 498-A, 323, 506 IPC was registered against the petitioner and his family members at Police Station Women, Amritsar. After registration of the said FIR, the petitioner's passport was renewed by the Indian High Commission, Wellington, New Zealand on 27.06.2019 as the petitioner is in New Zealand on a study visa. On 04.03.2020, he submitted his passport with the Indian High Commission, Wellington, New Zealand for endorsement of a Police Clearance Certificate. Thereafter, it came to light that the passport had been impounded. This order has been challenged in the writ petition.

On behalf of the petitioner it is submitted that impounding of passport on account of pendency of an FIR is illegal. Thus, a direction may be issued to the respondents to release the passport.

Learned counsel for the respondents submits that a complaint dated 25.06.2019 was received, two days prior to the renewal of the passport of the petitioner, from his estranged wife by respondent No.2 whereupon, show cause notice dated 09.07.2019 was issued. No response was received thereto. This was followed by letter dated 03.12.2019 and by order of even date, the passport was impounded for suppression of material information. Now, warrants of arrest have been issued against the petitioner vide order dated 31.05.2021 passed by the Judicial Magistrate Ist Class, Amritsar. Thus, there is no illegality in the order impounding the passport of the petitioner.

Section 6 of the Passports Act, 1967 (hereinafter referred to as the Act) is regarding refusal of passports, travel documents etc. Clause (f) of sub-section 2 thereof provides that a passport authority may refuse to

**CM Nos.9357 & 9369-CWP-2021 in/and
CWP No.10977 of 2021**

issue a passport or travel document in case proceedings in respect of a criminal offence are pending before a Criminal Court. This provision has been interpreted to mean that a criminal trial has commenced pursuant to presentation of challan. In the instant case, only an FIR has been registered and challan has not been presented. Thus, the passport authority could not have refused to renew/issue a passport.

The power of impounding of passport is contained in Section 10(3) of the Act. Clause (b) of sub-section 3 would be relevant in this present case. The said clause provides for impounding of the passport if the same was obtained by 'suppression of material information'. In the facts of this case, can it be said that there is 'suppression of material information'? In my considered opinion the answer to the question is 'No'. This is for the reason that under Section 6(2)(f) there can be no refusal to renew/issue a passport if an FIR is pending. Assuming, the petitioner had revealed the pendency of the FIR in his application for renewal, the respondents were bound to renew the same. Thus, it is illogical to suggest that the pendency of the FIR not being revealed amounts to 'suppression of material information'.

No other provision of the Passports Act, 1967 has been relied upon to support the impugned order.

Finally, it has been argued by learned counsel for the respondents that under Section 6(2)(g), a passport authority may refuse to renew a passport if warrants or summons for appearance have been issued by a Court. Admittedly, the warrants have been issued vide order dated 31.05.2021. This was not the situation when order dated 03.12.2019 was

**CM Nos.9357 & 9369-CWP-2021 in/and
CWP No.10977 of 2021**

passed impounding the passport. Thus, the respondents cannot take benefit of this fact.

In view of the aforementioned reasons, the writ petition is allowed and order dated 03.12.2019 is quashed . The passport impounded by the Indian High Commission, Wellington, New Zealand may be released to the petitioner forthwith so that he can travel to India. Thereafter, any appropriate action may be taken in accordance with law.

July 30, 2021
Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No