

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

CWP No. 11303-2020
Date of decision 29.01.2021

Sudesh Rani

...Petitioner

Vs.

State of Punjab and ors.

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Simsi Dhir Malhotra, Advocate
for the petitioner.

Mr. T.P.S. Chawla, DAG, Punjab

Ms. Shweta Nahata, Advocate
for respondent No. 2

Ritu Bahri, J. (Oral)

Petitioner is seeking issuance of direction to respondent No. 2 to withdraw notice dated 11.02.2020 (P-1) in view of reply dated 18.07.2020 (P-2). Further prayer of the petitioner is not to ask her to surrender her passport bearing No. U2488469 dated 21.01.2020 issued by respondent No. 2.

The petitioner is complainant in F.I.R No. 84/2010 registered under Sections 323/324/34 IPC at P.S. Sadar Kapurthala on the basis of which passport authority has issued notice dated 11.02.2020.

On notice of the petition, a reply has been filed on behalf of respondent No. 1 and 3 stating therein that the trial in F.I.R. No. 84 dated 11.09.2010 under Sections 323/324/34 IPC has been concluded by the learned trial Court, vide judgment dated 19.07.2017 and the accused were

acquitted. Further, in F.I.R No. 63 dated 09.06.2018 under Sections 341/324/34/120-B IPC registered against the petitioner by Ved Prakash, cancellation report has been submitted before the learned trial Court and thus the report was sent as NOT CLEAR to the Passport Office. In F.I.R No. 84, a cross version was registered by the petitioner but now the case has been concluded.

In the short reply filed by respondent No. 2, it has been stated that petitioner applied for re-issuance of passport in lieu of previous passport bearing number J-0074043 dated 02.08.2010. The application of the petitioner was processed and was re-issued and was valid up to 20.01.2030. The same was submitted for police verification report. In response to the above, an adverse police verification report was received against the petitioner having remarks "F.I.R No. 84/2010 registered under Sections 323/324 IPC at P.S. Sadar Kapurthala, is pending in the Court. After receiving the police verification report, the case of the petitioner was re-referred to Sr.S.P Kapurthala and the police authorities submitted their report vide No. 1257-C.P.R.C dated 24.12.2020 with remarks "Case against the petitioner is pending before the trial Court and hence not recommended". However, the passport bearing No. U2488469 is still with the petitioner and the same has not been impounded by respondent No. 2. The petitioner was only asked to surrender the passport.

Learned counsel for the petitioner is relying upon judgment of this Court in a case of *Sahib Jaskaran Singh vs. Union of India and others, 2016 (2) R.C.R (Crl) 798* wherein it has been held that passport cannot be refused or cancelled only on the ground of registration of an

Heard learned counsel for the parties at length.

Reference at this stage can be made to judgment of this Court in a case of ***Daler Singh vs. Union of India and others, passed in CWP No. 12143-2015***, decided on 01.10.2015 wherein petitioner was seeking direction to respondent No. 1 and 2 to issue him a passport, which has been withheld on a complaint made by respondent No. 3. The writ petition was disposed of and observed as under :-

"In Tarsem Singh's case (supra), this Court dealt with a matter of re-issue of passport to the petitioner, who was convicted and sentenced to undergo rigorous imprisonment for 5 years by the Trial Court. Appeal against conviction and sentence filed by him was pending, wherein, his sentence was suspended. The objection of the respondent was that the petitioner had not disclosed about his conviction in a criminal case at the time of police verification. Later on, the petitioner filed affidavit mentioning these facts. In these circumstances, this Court directed the Passport Officer to issue the passport to the petitioner, subject to the conditions that the petitioner shall take necessary permission by filing application before the Court to go abroad.

In Surinder Pal Singh's case (supra), a case under Sections 427/506/148/149 IPC and Section 25 of the Arms Act was registered against the petitioner. Report under Section 173 CrPC had been filed and even the charge was also framed against him and the case was pending for prosecution evidence. This Court disposed of the petition granting liberty to the petitioner to apply to the concerned criminal court and seek its permission to apply for re-issuance of passport.

Coming to the facts of the case in hand, a criminal case arising out of the strained matrimonial ties has been registered against the petitioner at the instance of his alleged wife. As per the documents available on record and the version of the parties, the Criminal Court has not taken cognizance of it and charge against the petitioner has not been framed.

In view of above, this petition is disposed of with a direction to respondent No.2 to re-issue the passport to the petitioner, if there is no other legal impediment, except the registration of the aforesaid case. However, it is directed that the manner of the use of the passport for travel outside will be subject to the orders of the appropriate criminal court of competent jurisdiction in respect of the FIR registered against the petitioner. The petitioner will himself approach the concerned Court, and seek appropriate directions to travel abroad, if he intends to use the passport for such a purpose.

It is not in dispute that the trial has been concluded in F.I.R. No. 84 dated 11.09.2010 and cancellation report has already been filed in F.I.R No. 63 dated 09.06.2018, which is pending consideration. Thus, the passport cannot be cancelled merely on the fact that F.I.R is pending against the petitioner. Now in one F.I.R i.e F.I.R No. 84, the trial has been concluded and in another i.e F.I.R No. 63, the cancellation report has been filed.

In view of the above factual position, the writ petition is allowed and notice dated 11.02.2020 (P-1) is quashed. Respondent No. 2 shall not proceed further now to cancel or withdraw the passport of the petitioner.

29.01.2021

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No