

Date of decision : March 17, 2021

.....Petitioner

Versus

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Bikramjit Singh Baath, Advocate for the petitioner.

Mr. Karan K. Jund, Advocate for respondents No. 1 and 2.

Ms. Ambika Bedi, AAG, Punjab.

Mr. Swaran Tiwana, Advocate for respondent No. 4.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner has filed this writ petition being aggrieved of a passport not being issued to her on the ground that FIR No. 79 dated 17.06.2015 in which cancellation has admittedly been filed is pending. It is submitted that petitioner's passport No.H6921582 expired on 30.08.2019. She submitted an application on 13.08.2019 for re-issuance/renewal of her passport. When inquiry was made by her for non-issuance of her passport, respondent – authorities informed the petitioner that police verification report had not been received. Learned counsel submits that at that stage, petitioner disclosed before the passport authorities that FIR No. 79 dated 17.06.2015 was registered against her on a complaint submitted by the petitioner's husband, though learned counsel for respondents No. 1 and 2 asserts that an adverse police verification report was the source of information. It is submitted that there is a matrimonial dispute between the petitioner and her husband and FIR No. 05 dated 26.05.2015 under Sections 406, 420, 498A IPC, at

petitioner's instance is pending against the petitioner's husband – respondent No. 4 who is a Non Resident Indian (NRI) and is living abroad. Respondent – authorities vide communication dated 31.08.2020, Annexure P5, advised the petitioner to apply for the passport after disclosing the current status of the case alongwith permission from the concerned Court to go abroad and an undertaking as per notification dated 25.08.1993. Aggrieved therefrom, present writ petition has been filed.

Learned counsel for the petitioner argues that insofar as applying afresh for the passport is concerned, the petitioner would have no issues but there cannot be any question of permission from the concerned Court to go abroad, for the simple reason that cancellation report in this case stands filed. Cognizance of the matter has not been taken by any Court. Moreover, after submission of cancellation report, matter was dismissed for want of prosecution on 04.09.2019 and the matter rests there. No further proceedings have been initiated. Respondent No. 4 – petitioner's husband, it is submitted, is abroad and has not come to India, therefore, petitioner should not be victimised in this manner. It is, thus, prayed that this petition be allowed.

Learned counsel for the State verifies that apart from FIR No. 79 dated 17.06.2015, in which cancellation report was filed, there is no other criminal case pending against the petitioner. It is further not denied that after submission of cancellation report, matter was dismissed for want of prosecution on 04.09.2019 and no further proceedings have been initiated therein. Notice had been issued in the same to the complainant – respondent No. 4 and he had never appeared. Learned counsel for respondent No. 4 does not deny that respondent No. 4 is not in India. Learned counsel for the respondents are unable to deny that passport cannot be denied on the sole ground that FIR has been registered in view of the fact that

Section 66 (2) and Section 10 (3) of the Passports Act, 1967, mandate that such refusal/revocation/cancellation can only be in the event of proceedings pending before a court of criminal justice. Until and unless cognizance is taken by the said court, the above provisions do not come into play. In the present case, cognizance has admittedly not been taken.

Learned counsel for respondent No. 2 submits that in case there is no other case pending against the petitioner except FIR No. 79 dated 17.06.2015, there would be no objection to issuance of passport to the petitioner.

Learned counsel for the petitioner submits that petitioner shall submit a fresh application within two weeks giving the entire details of pendency of FIR No. 79 dated 17.06.2015 and any undertaking as may be required of her. In case, such an application is submitted, respondent No. 2 is directed to consider the same and take action in accordance with provisions of law within four weeks thereafter.

Accordingly, present petition is disposed of.

March 17, 2021
rts

(Lisa Gill)
Judge

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