

23rd December, 2022
(D/L No.21)
(SKB)

W.P.A. 23067 of 2022

Krishna Kumar Chamria
Versus
Union of India and others

Mr. Suddhasatva Banerjee,,
Mr. Sourojit Dasgupta,
Mr. Ashis Kumar Mukherjee,
Mr. Sourabh Prasad
... for the petitioner.

Mr. Rajendra Banerjee
... for the respondent nos.1 & 2.

The petitioner claims to be an investor in a company where the respondent nos.3 to 5 were the Directors at the material point of time. The petitioner was to receive a certain amount of money on 11th October, 2020 on the maturity of the allotted preference shares. The petitioner complains that the cheque issued by the Company was dishonoured on being presented. The petitioner filed proceedings under Section 138 of The Negotiable Instruments Act, 1881.

The learned Metropolitan Magistrate, 11th Court, Calcutta issued a warrant of arrest on 1st March, 2022 against the respondent nos.3 to 5 who were the accused persons in the said proceedings. Since the respondents could not be located, a proclamation was issued against the said respondents on 16th July, 2022. The petitioner thereafter made a representation on 7th September,

2022 before the Regional Passport Authority for taking necessary steps in impounding of the passports of the three respondents.

Learned counsel appearing for the petitioner submits that the respondent no.4 is presently behind bars. The respondent no.3 received the writ petition on 10th October, 2022 and the respondent no.5 remains untraced.

Learned counsel appearing for the respondent nos.1 and 2/Passport Authority submits that the respondent nos.3 to 5 were issued show-cause notice on 16th September, 2022 and were given several reminders thereafter in October, 2022. The said respondents were called for personal hearing on 23rd November, 2022 but failed to appear before the Passport Authority. Counsel also refers to a Report of the Deputy Commissioner of Police dated 17th October, 2022 stating that the offence does not call for impounding of passport. Counsel submits a further reminder was sent to the Deputy Commissioner of Police on 2nd December, 2022.

Section 10 of The Passport Act, 1967 relates to variation, impounding and revocation of passports and travel documents. Sub-Section 3(e) provides that the passport authority may impound or revoke a passport if proceedings in respect of an offence alleged to have been committed by the holder of the passport are pending

before a Criminal Court in India. Section 10(3)(h) provides for cancellation if it is brought to the notice of the passport authority that a warrant or summons for appearance/a warrant for the arrest of the holder of the passport has been issued by a Court under any law for the time being in force.

The documents before the court show the subsistence of a warrant of arrest against the three respondents as well as the proclamation since none of the respondents could be traced. The submission of the respondent nos.1 and 2 also indicates that the respondent nos.3 to 5 have failed to attend the personal hearing before the Regional Passport Authority.

This court is, hence, of the view that the respondent nos.1 and 2 should take required steps in accordance with the mandate of Section 10(3) of The Passport Act, 1967.

W.P.A.23067 of 2022 is accordingly disposed of with a direction on respondent no.2 being the Regional Passport Officer, Delhi to consider and dispose of the representation made by the petitioner on 2nd September, 2022 having due regard to the Passport Act, 1967. The representation shall be disposed of within a period of four weeks from date by way of a reasoned order. The reasoned order shall be made available to the petitioner within a week from the date on which the reasoned

order is passed. The respondent no.2 shall also consider the effect of Section 10-A of The Passport Act, 1967 in relation to suspension of passport in certain specific cases.

(Moushumi Bhattacharya, J.)