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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 29.04.2022

Delivered On: 13.06.2022

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.Nos.17803 & 17806 of 2019

and

Crl.M.P.Nos.8979 & 8977 of 2019

Reynold Rex ... Petitioner in Crl.O.P.No.17803/2019

Martina Preethi ... Petitioner in Crl.O.P.No.17806/2019

Vs.

1. The State Rep. By  
The Inspector of Police,  
CCB, 1-Fake Passport Team 7,  
Vepery, Chennai.  
(Crime Nos.202 & 203/2018)

2. The Superintendent,  
Regional Passport Office,  
Rayala Towers, No.2 and 3,  
IV Floor, Old No. 785,  
New No.158, Anna Salai,  
Chennai - 2.

... Respondents in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Criminal Procedure Code to call for the records of the impugned First Information Report in the Crime Nos. 202 & 203 of 2018 on the file of the first Respondent and quash the same.

For Petitioners : Mr.P.D.Dinesh Kumar

For Respondents : Mr.S.Vinoth Kumar  
Government Advocate (Crl. Side) for R1

Mr.N.Ramesh  
Sr.P.C for R2



## COMMON ORDER

Mr.Reynold Rex S/o. Rex Santhakumar filed Crl.O.P.No.17803 of 2019 and Ms.Martina Preethi D/o. Rex Santhakumar filed Crl.O.P.No.17806 of 2019 filed to quash the FIR in Crime Nos. 202 & 203 of 2018 on the file of the first Respondent. Both the FIRs had been registered based on the complaint given by the Superintendent, Regional Passport Office, Royala Towers, Chennai to the Commissioner of Police, Chennai. Based on the complaint of the Regional Passport Office, Ministry of External Affairs, the case in Cr.No.202 of 2018 was filed by the Central Crime Branch, Chennai City Police against Martina Preethi D/o. Rex Santhakumar for the offence under Section 12 (1A) (a) of Passport Act, 1967 and Cr.No.203 of 2018 was filed by the Central Crime Branch, Chennai City Police under Section 12 (1A) (a) of Passport Act against Mr.Reynold Rex S/o. Rex Santhakumar.

2. Both the Petitioners are brother and sister and had surrendered their Indian Passport to the Passport Authority at Chennai. Only then they discovered both are French nationals. Therefore, the Regional Passport Office through its Superintendent filed complaint with the Commissioner of Police, Chennai City. Based on which, the Inspector of Police, Central Crime Branch had registered the FIR. As per the complaint, both Petitioners are born to Rex Santhakumar. Rex Santhakumar is an Indian by birth who had married Antoinette Vinola Adiceom who was a French National.

3. It is the contention of the learned Counsel for the Petitioners that the Nationality Service issued Certificate of French Nationality by the Consul-General of France in Pondicherry and Chennai (India), which is extracted hereunder:

"- The concerned person's birth certificate transcribed at the Consulate General of France in Pondicherry on 06 October 1967.

-The concerned person's family record mentioning the transcription of his marriage certificate at the Consulate General of France in Pondicherry on 11 September 1990

- Her spouse's birth certificate

- The marriage certificate of the concerned person's parents.

- The death certificate of her father, who passed away on 7 December 1969, in Karaikal.

- Her mother's birth certificate issued by the Central Civil Status Department mentioning the married status



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of her parents.

- The death certificate mentioning the birth place of her paternal grandfather, who passed away on 19 October 1963

- Her father's document of renunciation of his personal status.

- The letter of the Naturalisations Division dated 23 December 1981, concerning the declaration of choice for French nationality of her father ( Article 5 of the Indo-French Treaty of 28 May 1956)

- The Attestation of French nationality issued on 15 December 1969, by the Consulate General of France in Pondicherry to her mother mentioning that her maternal grandfather was born in Karaikal on 13 October 1901

- The declaration of choice for French nationality of her mother (Article 5 of the Indo-French Treaty of 28 May 1956)

- The Consular card of the concerned person mentioning her registration in Pondicherry, under no. 01005801 till 05 May 2005.

- Verification carried out with the Naturalisations Division on 20 June 2001."

3.1. Antoinette Vinola Adiceom was a French Citizen. The children born to Antoinette Vinola Adiceom are considered as French Citizens. The place of birth is Karaikal and the father of the children is an Indian National and they are living in Chennai. While so, as per the Indo-French treaty, the children born to French Citizens are entitled to French Nationals eventhough they are born outside France. The Petitioners herein had obtained Indian Passport in the year 2011 based on their father's nationality. Subsequently they obtained French Passport. Based on French Passport in the year 2017, the Petitioners had surrendered their Indian Passport. Before surrendering their Indian Passport, they had not used Indian Passport for travelling abroad. They had bonafidely surrendered their Indian Passport. They had not committed any crime. Only after their voluntary surrender, the passport Authority has preferred a complaint to the Commissioner of Police. Based on which, the Central Crime Branch had registered the FIR in Cr.Nos. 202 & 203 of 2018.

3.2. Further, the learned Counsel for the Petitioners submitted that before registering the FIR, the Investigation Officer had to obtain prior sanction from the Authorities concerned. In this case, prior sanction was not obtained. Therefore, the FIR is to be quashed. It is nothing but an abuse of process of Court to harass the bonafide surrender of passport by the Petitioners even though they had not indulged in any offences.



4. The learned Government Advocate (Crl. Side) furnishing the ruling of the Kerala of High Court reported in 2017 SCC Online Ker 10002 in the case of Noufal M.H. Vs. State of Kerala wherein it was observed that while registering the FIR under Passport Act, sanction is not necessary. Only after filing of the final report, when the learned Judicial Magistrate take cognisance of the offence, sanction is necessary. Till such time sanction is not necessary.

4.1. The learned Government Advocate (Crl. Side) vehemently objected to quash the FIR stating that the investigation has to proceed and its logical conclusion in laying the final report before the Court concerned. If the Investigation Officer is satisfied that the documents furnished by the petitioners are genuine and there is no incriminating materials against the Petitioners, the Investigation Officer himself can close the investigation and file Referred Charge Sheet before the Court concerned. Scuttling the investigation at this stage is unwarranted, it is nothing but an abuse of process of Court as per the ruling of the Hon'ble Supreme Court in 1992 Supp (1) SCC 335:1992 SCC (cri) 426 in the case of State of Haryana Vs. Bhajanlal.

5. Considering the fact that both the Petitioners are born in India as per the Citizenship Act, they were under impression that they are Indian Citizens. The father has not surrendered his Indian Passport. Under those circumstances, they had surrendered their Indian Passport after obtaining French Passport, they are treated as French Citizens based on their mother's nationality by the Consul-General of France, Pondicherry as per the documents furnished by the French Consul General. Those documents were genuinely produced before the Passport Authority at the time of surrendering of the Indian Passport. Therefore, the complaint given by the Regional Passport Officer to the Commissioner of Police, even though justified, will be a harassment to the Petitioners herein as they had bonafidely surrendered all the relevant documents to the Passport Authorities. The fact that their father is an Indian Citizen and their mother is a French Citizen even though they were born in Karaikkal within the territorial jurisdiction of India and outside French Republic, by their mother nationality, they are treated as French nationality by the Consul-General of France. It is not found attracting criminal action on the part of the Petitioners herein. Therefore, in the light of the submission of the learned Counsel for the Petitioner and his objection of the learned Counsel for the Passport Authority as well as the learned Government Advocate (Crl. Side) to dismiss this Petition to allow the Investigation Officer to conduct the Investigation to its logical end in



laying final report before the Court concerned is found unwarranted exercise.

5.1. Considering the fact, the Petitioners had believed that their father being an Indian Citizen, they are entitled to Indian Passport. Subsequently having been considered as a French Nationality by the Consul-General of France in India, they had obtained French Passport and surrendered their Indian Passport, is found bonafide conduct on the side of the Petitioners and it cannot be considered as criminal offence in the peculiar circumstances.

In the result, Criminal Original Petitions are allowed.

The FIR in the Crime Nos. 202 & 203 of 2018 on the file of the first Respondent are quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

1. The Inspector of Police,  
CCB, 1-Fake Passport Team 7,  
Vepery, Chennai.
2. The Superintendent,  
Regional Passport Office,  
Royala Towers, No.223,  
IV Floor, Old No.785,  
New No.158, Anna Salai,  
Chennai - 2.
3. The Public Prosecutor  
High Court of Madras  
Chennai 600 104.

+2ccs to Mr.P.D.Dinesh Kumar, Advocate, S.R.No.35052

CRL.O.P.No.17803 & 17806 of 2019

RSV(CO)  
UMA(07/07/2022)