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W.P.No.24721 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.24721 of 2022

Thyagarajan Somasundaram

...  
Petitioner

Vs

The Regional Passport Officer,  
Regional Passport Office,  
Chennai Royala Towers,  
No.2 and 3, IV Floor,  
Old No.785, New No.158,  
Anna Salai,  
Chennai – 600 002.

...  
Respondent

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to renew the petitioner's ordinary passport bearing No.H8570228 with full validity period within a stipulated time along with a consequential direction to respondent to permit the petitioner to travel abroad.

For Petitioner : Mr.T.P.Prabakaran

For Respondent : Mrs.A.Anuradha  
Central Govt. Standing Counsel



W.P.No.24721 of 2022

## **ORDER**

**WEB COPY** The prayer sought for herein is for a writ of mandamus directing the respondent to renew the petitioner's ordinary passport bearing No.H8570228 with full validity period within a stipulated time along with a consequential direction to the respondent to permit the petitioner to travel abroad.

2. The petitioner is the passport holder of the Passport No.H8570228. In order to get renewal of the passport, he made an application to the respondent on 17.06.2022. However, the said application was not considered on the ground that, there was a criminal case pending against the petitioner before the concerned Magistrate Court.

3. At that circumstances, in order to get a NOC from the concerned Court where the criminal case was pending against the petitioner, the petitioner had already approached the said Court and filed a C.M.P.No.2000/2022 in C.C.No.143/2012. However, by order dated 29<sup>th</sup> August 2022, the learned Judge passed an order stating that the scope and jurisdiction of the Court finds that issuance of NOC in the absence of any specific provision under criminal procedure code cannot concede to the



W.P.No.24721 of 2022

submissions of the petitioner, accordingly the petition was dismissed. Only in that circumstances, the petitioner has moved the present writ petition with the aforestated prayer.

4. Heard Mr.T.P.Prabakaran, learned counsel appearing for the petitioner who would submit that, the first wife who has got divorce subsequently from the petitioner has made a complaint under Section 498(A) I.P.C. against the petitioner and pursuant to which, the charge sheet has been filed before the concerned Court where the case is pending for long years i.e. from 2012 and trial is not taken up immediately.

5. However, since the petitioner has to go abroad unless his passport is renewed, it may not be possible for the petitioner to go abroad to join with his family as he subsequently married another woman and is having one year old child.

6. Therefore, the learned counsel for the petitioner seeks indulgence of this Court to give a suitable direction to the respondent to consider the application of the petitioner for renewal of passport.



W.P.No.24721 of 2022

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7. Heard Mrs.A.Anuradha, learned Central Government Standing Counsel appearing for the respondent who would submit that, admittedly there has been a criminal case pending against the petitioner where charge sheet has been filed and the trial is going on, therefore it may not be knowing to the respondent as to what time the petitioner's presence is required to face the trial. Therefore in that circumstances, the Criminal Court has to consider and issue an NOC that the petitioner can be considered for grant of passport or renewal of passport for the purpose of going abroad and this position has been made clear in the recent judgment of this Court dated 16.08.2022 in W.P.No.12763 of 2021 in the matter of S.Kartheekeyan Vs. Union of India and others. Relying upon the said judgment, the learned Standing Counsel would seek indulgence of this Court to direct the party i.e. the petitioner to get an NOC and produce the same to the respondent. Unless and until the NOC obtained from the Magistrate Court is produced before the respondent, the application submitted by the petitioner to get renewal of the passport may not be considered, she submitted.

8. I have considered the said rival submissions made by the learned



W.P.No.24721 of 2022

counsel appearing for both sides and have perused the materials placed before this Court.

9. As has been rightly pointed out by the learned counsel appearing for the respondent, invariably in many number of cases of this nature where if a seeker of a passport or renewal of passport against whom if there is any criminal case is pending and that is also in the trial stage where charge sheet already been laid before the concerned Criminal Court, the concerned party has to get NOC from the Court if his immediate presence may not be required for the Court and therefore, to that effect the application submitted by the parties can be considered by the respondent i.e. Passport Authority either for issuance of passport or renewal of passport. This position since has been made clear in many number of cases, this Court cannot deviate the same and therefore, this Court is inclined to dispose of this writ petition with the following orders:

(i) That it is open to the petitioner to make a fresh application before the concerned Magistrate Court where the criminal case is pending and if any such application is filed, the same can be taken into account in view of the pendency of the said criminal case by the concerned Magistrate Court and



W.P.No.24721 of 2022

accordingly on merits he can make a decision as to whether the presence of the petitioner is immediately required for completing the trial and in that case accordingly he can take a decision as to the plea raised by the petitioner whether he can be given NOC or not.

(ii) After a decision is made in this regard and if NOC is granted by the Court to the petitioner, the same can be produced before the respondent and the Passport Officer, on receipt of such NOC from the petitioner, can decide the application submitted by the petitioner on 17.06.2022 for renewal of the passport, accordingly he can pass necessary orders on merits and in accordance with law within a period of four weeks thereafter.

10. With these directions, this Writ Petition is disposed of. No costs.

14.11.2022

Index : Yes / No

Speaking Order: Yes / No

Note : Issue order copy on **21.11.2022**

Sgl



W.P.No.24721 of 2022

To

WEB COM The Regional Passport Officer,  
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R. SURESH KUMAR, J.

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