



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.765 of 2022

Madappan

... Petitioner

Vs.

1.The Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.

2.The Inspector of Police,
Kovilankulam Police Station,
Tenkasi District.

...Respondents

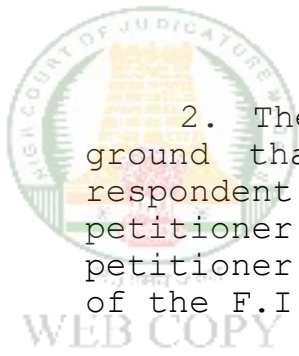
(R-2 is suo motu impleaded vide Court order dated 20.01.2022 in W.P. (MD) .No.765 of 2022)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Letter Ref.No.SCN/311175629/21 dated 03.09.2021, quash the same and consequently directing the respondent to re-issue the passport bearing No.U9089333 to the petitioner based on the petitioner's representation dated 30.12.2021.

For Petitioner	:	Mrs.S.Prabha for Mr.D.Rameshkumar
For R-1	:	Mrs.L.Victoria Gowri, Assistant Solicitor General of India.
For R-2	:	Mrs.S.Jeyapriya Government Advocate.

ORDER

This Writ Petition has been filed challenging the impugned letter dated 03.09.2021 issued by the first respondent requesting the petitioner to send the Court judgment order copy relating to the criminal case pending in Crime No.162 of 2021 under Section 294(b), 506(ii) of IPC read with Section 4 of TNPHW Act.



2. The petitioner has challenged the impugned letter on the ground that pendency of an F.I.R does not prohibit the first respondent from issuing passport. It is also the case of the petitioner that he is innocent and has been falsely implicated. The petitioner has submitted an explanation dated 30.12.2021 in respect of the F.I.R.

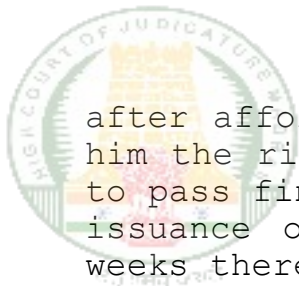
3. Heard Mrs.S.Prabha, learned counsel for the petitioner, Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India, who accepts notice for the first respondent and Mrs.S.Jeyapriya, learned Government Advocate, who accepts notice for the second respondent.

4. On instructions, Mrs.S.Jeyapriya, learned Government Advocate appearing for the second respondent would submit that even though charge sheet has been filed before the learned Judicial Magistrate, Sankarankovil on 10.08.2021 with regard to Crime No.162 of 2021, the same has not been taken cognizance of by the said Magistrate.

5. Unless and until the learned Magistrate takes cognizance of the charge sheet, there is no necessity for the petitioner to approach the Magistrate Court seeking permission for obtaining a passport. The petitioner has submitted an application to the first respondent seeking for re-issuance of passport in his favour. Admittedly, the said application is pending. Even though an F.I.R may be pending against the petitioner, it is for the first respondent to consider the same on merits and in accordance with law. Mere pendency of an F.I.R will not prohibit the first respondent from issuing passport. Issuance of passport depends on facts and circumstances of each case. The first respondent will have to consider the explanation and after affording a fair hearing to the petitioner, will have to decide as to whether the petitioner is entitled to obtain a passport or not.

6. In the case on hand, the petitioner has sought for re-issuance of passport in his name. In the impugned communication dated 03.09.2021, the first respondent has not rejected the petitioner's application seeking for re-issuance of passport but has only requested the petitioner to send Court judgment order copy relating to Crime No.162 of 2021 pending against the petitioner for the alleged offences under Section 294(b), 506(ii) of IPC read with Section 4 of TNPHW Act.

7. Since the application of the petitioner has not been rejected yet, this Court directs the petitioner to submit a written explanation to the first respondent with regard to the registration of F.I.R against him in Crime No.162 of 2021 for the alleged offences under Section 294(b), 506(ii) of IPC read with Section 4 of TNPHW Act, within a period of one (1) week from the date of receipt of this order. On receipt of the said explanation and



after affording a fair hearing to the petitioner including granting him the right of personal hearing, the first respondent is directed to pass final orders on the petitioner's application seeking for re-issuance of passport in his name within a period of twelve (12) weeks thereafter.

8. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.
- 2.The Inspector of Police,
Kovilankulam Police Station,
Tenkasi District.

+1 CC to M/s.SPL GP (SR-13204[F] dated 21/03/2022)

W.P. (MD) .No.765 of 2022
18.03.2022

LM

MS/28.03.2022/3P.4C