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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:11.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.6241 of 2022

and

Crl.M.P(MD) No.4314 of 2022

J.P.Sunil
S/o.Jegannathan
Operations Manager
Gargash Enterprises
Owned by Almotasaliha
P.O.Box o.1418, Dubai
United Arab Emirates through
His General Power of Attorney
Sri.P.Jaganathan

...Petitioner

Vs.

1.The Counsel General of India,
The Counsulute General of India,
Dubai,
United Arab Emirates.

2. The Passport Officer,
Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai-625002.

...Respondent 1 & 2.

3. The State rep. by
The Inspector of Police,
All Women Police Station,
KanyaKumari,
Kanyakumari District.
(Crime No.2/2010)

...Respondent No.3/
Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of the Order in Crl.MP.No.865/2021 in CC No.407/2018 on the file of the learned Judicial Magistrate, Additional Mahila (Magisterial Level) at Nagercoil dated 04/02/2022 and set aside the same.

For Petitioner	:	Mr.V.Kathirvelu, Senior Counsel for Mr.S.Seenivasan
For Respondents	:	Mrs.L.Victoria Gowri
No.1 and 2	:	Assistant Solicitor General
No.3	:	Mr.B.Thanga Aravindh Government Advocate(Criminal Side)

**ORDER**

This petition has been filed seeking direction to call for the records of the order in Crl.MP.No.865/2021 in CC No.407/2018 on the file of the Learned Judicial Magistrate, Additional Mahila (Magisterial Level) at Nagercoil dated 04/02/2022 and set aside the same.

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2. The petitioner is the power of attorney holder representing the petitioner by the power of attorney dated 02.12.2020. The petitioner is the accused in CC No.407 of 2018 on the file of the learned Judicial Magistrate, Additional Mahila Court (Magisterial Level) at Nagercoil having been taken cognizance for the offence under Sections 498(A), 406 of IPC and Section 4 and 6 of Dowry Prohibition Act. The petitioner is holder of Indian Passport bearing No.Z2145137 and it was due for expiry on 06.02.2021 and it is required for the petitioner to work in United Arab Emirates and to get Visa which is due for expiry on 19.05.2022. It has to be extended and to travel to India to attend the trial and to give evidence. Application form for the renewal of passport contain a clause in respect of disclosing the fact, that is, "Have you ever been charged with criminal proceeding (or) any arrest, warrant/summon pending before a court of India. Due to the pendency of the proceedings, the Counsulute General of India require that the passport holder to prove the citizenship of the country passport is the essentail document to prove citizenship and to live and work in abroad for earning of his livelihood. Therefore the petitioner required to produce the No Objection Certificate from a Court of India for renewal of his passport. Therefore the petitioner approached the Court below for a direction to issue a certificate of order to renew the passport. However the Court below directed the Embassy to issue Emergency one way passport to the petitioner to travel back to India and to attend the hearing and the passport authorities are directed to renew the passport of the petitioner for a period of six months from the date of renewal.

3. Heard the learned counsel appearing on either sides.

4. On a perusal of the record revealed that the petitioner is a Mechanical Engineer working as Operation Manager in a fuel supply company in United Arab Emirates. In this regard, the learned counsel for the petitioner relied on the judgment of this Court in **2017 MHC 4733** in the case of **N.Chandrababu .vs. The Sub Inspector of Police, Palakarai Police Station, Trichy and Others** and this Court has held that permission should be granted to the petitioner to go abroad. Further permitted the petitioner to depart from India and fix the date for returning to India. Further the passport authorities are directed to exempt the petitioner from the operation of the provisions of clause(f) of sub section (2) of the section 6 of the passport Act. Further directed the petitioner to give an undertaking as contemplated by clause(d) of the Notification dated 25.08.1993.



5. In view the above, this Court directs the first and second respondent to issue Emergency passport to travel to India and to attend the Court proceedings for a period of three years and the passport authorities are directed to renew the passport of the petitioner bearing No. Z2145137 for a period of three years from the date of **(*)issue** of passport. The petitioner shall give an undertaking as contemplated under Sub Clause(d) of the Notification dated 25.08.1993 in GSR 570(E)Notification of the Ministry of External Affairs.

6. The Criminal Original petition stands disposed of accordingly. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (RTI)

(*)Corrected as per the order of this Court dated 11.07.2022 and made in Crl.M.P(MD).No.7765 of 2022 in Crl.O.P.(MD) No.6241 of 2022

Sd/-

Assistant Registrar (III)

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/ /2022

Sub Assistant Registrar(CS)

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To

(*)To be substituted to the order which was already despatched on 28/04/2022

1.The Judicial Magistrate,Additional Mahila Court, Nagercoil.

2.The Counsel General of India,
The Counsulat General of India,
Dubai,United Arab Emirates.

3. The Passport Officer,
Passport Office, Bharathi Ula Veethi,
Race Course Road,
Madurai-625002.

4. The Inspector of Police,
All Women Police Station,
KanyaKumari,
Kanyakumari District.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court.

+1 CC to M/s.S. SEENIVASAN, Advocate, SR-31559

+1 CC to M/s.L.Victoria Gowri, Advocate, SR-6960

Crl.O.P.(MD) No.6241 of 2022 and

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