



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14808 of 2022

K.Mohammed Riyaz

... Petitioner

Vs.

1.The Regional Passport Officer,
O/o.Regional Passport Office,
No.13, South Bye-pass Road,
Tirunelveli.

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

(Crime No.267/2020)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to issue the passport of the petitioner bearing a application Reference No.(ARN) 21-1001971865, dated 23.03.2021 within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For R1 : Mr.K.Ashok Kumar Ram

For R2 : Mr.M.Prakash
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner seeks issuance of passport so that he can go abroad. Since the petitioner's application was not being processed, this Writ Petition came to be filed.

3. When the matter was taken up for hearing, the learned Additional Government Pleader submitted that the petitioner is shown as one of the accused in **(*)C.C.No.457 of 2022** on the file of the Judicial Magistrate, Shengottai. It is a case arising under Section 379 of IPC. When the case has been charge sheeted, the applicant is relegated to move the jurisdictional criminal Court. In normal circumstances, I would have adopted the very same approach. I went through the contents of the FIR. It is seen that the case concerns theft of goat. The defacto complainant had alleged that three persons had taken his goat in a two wheeler bearing Registration No.TN76AK0929. The two persons have been named. The case of the



prosecution is that the petitioner was also one of the riders of the aforesaid two wheelers does not belong to the writ petitioner. Even according to the defacto complainant, the value of the goat was Rs.6,000/-. The defacto complainant wanted the goat to be retrieved.

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4. The learned counsel appearing for the petitioner states that he will deposit the amount of Rs.6,000/- to the credit of **(*) C.C.No.457 of 2022** on the file of the Judicial Magistrate, Shengottai and that he will not have any objection for the defacto complainant to withdraw the amount also.

5. Since such an offer has been made by the petitioner, recording the said undertaking, I am inclined to grant relief. The writ petitioner is directed to deposit a sum of Rs.6,000/- to the credit of **(*)C.C.No.457 of 2022** on the file of the Judicial Magistrate, Shengottai. It is open to the defacto complainant Kaliraj to withdraw the said amount. The petitioner is also further directed to execute special vakalat so that even in his absence the case can proceed. Since the case against the petitioner rests on thin ice and since the petitioner without prejudice to his assertion that he is absolutely innocent has come forward to make good the loss to the complainant, I direct the first respondent to process the petition mentioned application and issue passport to the petitioner subject to fulfilment of the usual formalities.

6.The writ petition is allowed. No costs.

Sd/-

Assistant Registrar(Crl.Side)

(*)Corrected as per the order of this court dated 15/03/2023.

Sd/-

Assistant Registrar(R)

// True Copy //

15/03/2023

Sub Assistant Registrar(CO)

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To

To be substituted to the order already despatched on 17/08/2022

1.The Judicial Magistrate,
Shenkottai.

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



3.The Regional Passport Officer,
O/o.Regional Passport Office,
No.13, South Bye-pass Road,
Tirunelveli.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.ASOK KUMAR RAM, Senior Panel Counsel (SR-33752[F]
dated 26/07/2022)
+1 CC to M/s.SPL.GP (SR-34063[F] dated 27/07/2022)
+2 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-34557 & 15365[F] dated
28/07/2022)

W.P(MD)No.14808 of 2022
26.07.2022

SK(11.08.2022) 3P 6C
MK(15.03.2023) 3P 9C