



W.P.(MD).No.17517 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.17517 of 2022

and

W.M.P(MD)Nos.12740 and 12741 of 2022

Somasundaram

... Petitioner

vs.

1.The Regional Passport Officer,
O/o.Regional Passport Office Madurai,
Bharathi Ulla Veethi,
Race Course Road,
Madurai-625 002.

2.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.

*(R2 impleaded vide Court order dated 12.10.2022
in W.M.P(MD)No.13995/2022)*

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned show cause notice in letter Ref.No.SCN/312926867/22 dated 06.07.2022, issued by the first



W.P.(MD).No.17517 of 2022

respondent and quash the same as illegal.

WEB COPY

For Petitioner : Mr.J.David Ganesan

For Respondents : Mrs.L.Victoria Gowri
Assistant Solicitor General of India

ORDER

This writ petition has been filed challenging the impugned show cause notice issued by the first respondent in letter Ref.No.SCN/312926867/22, dated 06.07.2022 and to quash the same.

2. Heard Mr.J.David Ganesan, learned counsel appearing for the petitioner and Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India appearing for the respondents.

3. The case of the petitioner is that he has obtained a passport on 27.01.2012 with effect up to 26.01.2022 from the respondent Department. He has made an application on 26.01.2022, through online for renewal of his passport along with particulars. On receipt of his application, the first respondent has fixed the date for appearance of the



W.P.(MD).No.17517 of 2022

petitioner on 24.06.2022 at 2.15 p.m.. He appeared before the respondent in person on that day along with relevant certificates and documents. After verifying the same, the first respondent has issued passport to the petitioner in Passport No.V8881547, on 27.06.2022. Thereafter, all of a sudden, on 06.07.2022, the first respondent has issued a show cause notice in letter Ref.No.SCN/312926867/22 stating that why action should not be taken to impound the passport number V8881547, dated 27.06.2022 under Section 10 (3) (b) of the Passport Acts, 1967 and Section 12 (1) (b) of the Passport Act, 1967 should not be initiated against the petitioner and directed him to submit a fresh application. Aggrieved over the same, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would submit that as on today, there is no charge sheet pending before the criminal Court and no cognizance has been taken as against the petitioner. He would further submit that without verifying the records, the first respondent has exercised the power guaranteed under Section 10(3)(b) and 12(1) (b) of Passports Act, 1967. Further, except the F.I.R., in Crime



W.P.(MD).No.17517 of 2022

WEB COPY

No.61 of 2019, on the file of Perumalpuram Police Station for the offences under Sections 147, 323, 379, 427 and 447 of I.P.C., and Section 4 of Tamil Nadu Women Harassment Act, no criminal case is pending as against the petitioner. He has also lodged a complaint and after conducting preliminary enquiry, the same police officials registered a counter case in Crime No.62 of 2019.

5. The learned Government Advocate (Crl.side) appearing for the second respondent has filed a counter stating that the petitioner and his associates had entered into the house of Muthumari on 05.03.2019 at 16.30 hrs., and assaulted her with hand and caused injuries and damaged the household articles. Based on the complaint given by Muthumari, a case in Crime No.61 of 2019 was registered against the petitioner and two named and seven unnamed persons for the offences under Sections 147, 323, 379, 427 and 447 of I.P.C., and Section 4 of Tamil Nadu Women Prohibition of Harassment Act, 1998. The petitioner has obtained anticipatory bail in Crime No.61 of 2019 from the learned Principal Sessions Judge, Tirunelveli. During the course of investigation, two



W.P.(MD).No.17517 of 2022

WEB COPY

accused names were deleted and final report has been filed against the petitioner and two others viz., Muthusamy and Chithiraivel before the learned Judicial Magistrate No.I, Tirunelveli and hence, he prayed for dismissal.

6. Heard the learned counsel for the petitioner, learned Assistant Solicitor General of India appearing for the first respondent and the learned Government Advocate (Crl.side) appearing for the second respondent.

7. On going through the materials available on record, it is seen that final report has been filed before the learned Judicial Magistrate No.I, Tirunelveli and not taken on file. Therefore, this Court directs the petitioner to submit his explanation to the show cause notice dated 06.07.2022, issued by the first respondent and on receipt of such explanation, the first respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of such explanation.



W.P.(MD).No.17517 of 2022

WEB COPY

8. It has to be pointed out that in this case, even though the crime is of the year 2019 for the simple dispute between the parties, the police has not chosen to file a charge sheet for the past three years. It is made clear that the petitioner cannot misuse the power of this Court and the petitioner has to follow the Rules strictly, if any charge sheet is filed and if his name is found in the charge sheet, he has to approach the competent Court for maintaining the said passport.

9. With the above directions, this Writ Petition is disposed of. No costs.

07.11.2022

Index:Yes/No
Internet:Yes/No

akv

To

1.The Regional Passport Officer,
O/o.Regional Passport Office Madurai,
Bharathi Ulla Veethi,
Race Course Road,
Madurai-625 002.

6/8



W.P.(MD).No.17517 of 2022

WEB COPY
2. The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.



WEB COPY



W.P.(MD).No.17517 of 2022

V.BHAVANI SUBBAROYAN,J.

akv

W.P.(MD)No.17517 of 2022

07.11.2022