



W.P.(MD).No.22112 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.22112 of 2022

D.Vetrikondan

... Petitioner

vs.

1.The Regional Passport Officer,
Regional Passport Office Tiruchirapalli,
Municipal Water Tank Building,
W.B.Road,
Tiruchirapalli.

2.The Superintendent of Police,
Pudukkottai,
Pudukkottai District.

3.The Inspector of Police,
Karaikudi South Police Station,
Sivagangai.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to receive the petitioner's application and consequently directing the respondents to grant the passport to the petitioner based on the representation dated 25.07.2022 within the time that may be stipulated by this Court.



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For Petitioner : Mr.V.Sujatha Siddharthan
For R1 : Mrs.L.Victoria Gowri
Assistant Solicitor General of India
For R2 & R3 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to receive the petitioner's application and grant passport to the petitioner, based on his representation dated 25.07.2022.

2. The case of the petitioner is that he has applied for passport before the first respondent vide application No.TR2063144385720, dated 10.12.2020. The first respondent has sought for clarification, on 28.12.2020, regarding the registration of the case in Crime No.12 of 2017 dated 18.01.2017 against him. The petitioner has sent a detailed explanation about the registration of the false case against him on 25.07.2022. The said complaint was made by one Kanti Makwana residing at Katargam, Surat in Gujarat. After filing the complaint, the de-



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facto complainant has not proceeded with the case and the same is still pending in F.I.R. stage and the limitation period of five years already over. Hence, the complaint filed against him does not survive.

3. It is well settled preposition of law that the pendency of the criminal case at the F.I.R. stage is not a bar for issuance of passport. The first respondent, by letter dated 01.08.2022, requested the petitioner to apply for the passport freshly along with requisite fee and documents by quoting the previous reference number. But there is no option of referring the previous number. Therefore, he is not able to quote the previous reference number and when he approached the authorities in person and informed his inability to make his application afresh through online, they refused to accept his application. Hence, he filed the present writ petition.

4. Ms.L.Victoria Gowri, learned Assistant Solicitor General of India appearing for the first respondent has filed a counter, wherein it has been stated that the petitioner was born on 01.12.1987 at Malaiyur



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residing at No.520, Ayipatti, Vellalavidhuthi Post, Karambakudi Taluk, Pudukottai District, Tamil Nadu and has applied for issuance of fresh passport vide File No.TR2063144385720 at the Passport Seva Kendra, Tiruchirapalli and his application was processed on the basis of pre police verification. Thereafter, the office received an adverse police verification report from the Superintendent of Police, Pudukottai stating that the petitioner involved in a criminal case in Crime No.12 of 2017 on the file of Karaikudi Police Station, Sivagangai District. In this regard, a show cause notice was served to the petitioner on 29.12.2020, directing him to furnish his explanation regarding the criminal case pending against him. The petitioner did not respond to the show cause notice even after lapse of more than one year. Therefore, the office has initiated file close letter to the applicant on 07.10.2022. Since no reply was forthcoming from the applicant, the application File No.TR2063144385720 was closed on 25.02.2022. The petitioner has responded to the office only on 25.07.2022 and requested to grant passport facilities after closure of the application. In this regard, the office has issued a letter to the applicant on 01.08.2022, informing that



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his application was closed on 25.02.2022 and he was advised to apply afresh with the required documents. Since the application submitted on 10.12.2020 has already been closed, there is no provision for reopening the case. The petitioner's claim at this juncture cannot be accepted and the same has to be rejected.

5. The learned Government Advocate (Crl. side) appearing for the respondents 2 and 3 would submit that the F.I.R. has been registered, based on the complaint given by one diamond merchant called Kanti Makwana, S/o. Dhudabhai, who is a businessman and hailing from Lalitha Park Society, Katargam, Surat, Gujarat, that the petitioner and two other persons from Kerala have taken all the diamonds from him as if they are the diamond merchants and cheated the person. The respondent police have investigated the matter and arrested the accused Nos.1 to 5 and the 6th accused is absconding. He would further submit that the investigation is still pending and if any passport is issued to the petitioner, he will fly over to another country and the said investigation will not be fruitful. Hence, he seeks for dismissal of the said application.



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6. The learned counsel for the petitioner has relied on a decision of this Court in W.P.(MD).Nos.8343 to 8350 of 2014, dated 27.06.2014, wherein, it has been held that mere pendency of F.I.R. is not a bar and unless the Judicial Magistrate takes cognizance of the offence, on filing of charge-sheet on completion of investigation against the applicant, it cannot be said that the proceedings are pending before the Criminal Court.

7. The learned Assistant Solicitor General not stated so and they have not received appropriate explanation from the petitioner and as such, they have closed the said application and if the petitioner is seeking for passport, he has to approach the authorities afresh with relevant documents and the same will be considered by the authorities and pass appropriate orders. It is well settled principles of law that each case has to be considered on its own merits and here is the case where the petitioner has cheated the said businessman colluding with other persons by taking the diamonds for away from the said merchant and the



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petitioner is also one of the co-accused and all these aspects has to be looked into by this Court, while deciding the matter for issuance of passport.

8. In the result, this Writ Petition is dismissed. No costs.

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Index:Yes/No

Internet:Yes/No

akv

To

1.The District Registrar,
Registration Department,
Palayamkottai,
Tirunelveli District.

2.The Sub Registrar,
Sub Registrar Office,
Panagudi,
Tirunelveli District.

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