



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2022

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.21991 of 2021

WEB COPY

K.Venkadeswaran

... Petitioner

vs.

1.The Regional Passport Officer,
Ministry of External Affairs,
Madurai.

2.The Superintendent Enquiry Officer,
Regional Passport Office Madurai,
Bharathi Ula Veethi, Race Course Road,
Madurai - 625 002, Tamil Nadu.

3.The Inspector of Police,
District Crime Branch Police Station,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the first and second respondents to issue passport on the petitioner's application with file No.MD1063103301720, dated 17.11.2020 considering the petitioner's reply dated 18.10.2021.

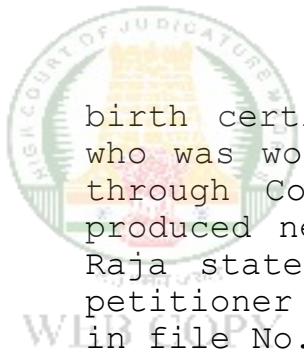
For Petitioner	:Mr.K.Sathish Kumar
For R1 and R2	:Mr.Raagavendra
For R3	:Mr.D.Ghandiraj
	Special Government Pleader

O R D E R

This Writ Petition has been filed in the nature of Mandamus seeking a direction against the first and second respondents to issue passport on the petitioner's application with file No.MD1063103301720, dated 17.11.2020 considering the petitioner's reply dated 18.10.2021.

2.Heard Mr.K.Sathish Kumar, learned Counsel for the petitioner, Mr.Raagavendra, learned Standing Counsel for Respondents 1 and 2 and Mr.D.Ghandiraj, learned Special Government Pleader for Respondents 3 and 4.

3.In the affidavit filed in support of the Writ Petition, it is stated that the petitioner had completed his B.E., in 2013 and decided to get a passport. At that time, it was necessary to get a



birth certificate also. He had approached one Mahalingam @ Raja, who was working as an Advocate Clerk for getting birth certificate through Court. He was asked to pay a sum of Rs.3,500/-. He produced necessary documents and thereafter, the said Mahalingam @ Raja stated that birth certificate was ready and gave it to the petitioner herein. The petitioner thereafter filed an application in file No.MD1061358179412 for issuing passport.

4.He enquired as to the progress and it was found that the birth certificate filed by him, as a document for obtaining passport, was a forged document. This led the third respondent/Inspector of Police, District Crime Branch Police Station, Ramanathapuram District, to register a case in F.I.R.No.23 of 2013 on 03.06.2013 for the offences punishable under Sections 260, 468, 471 and 420 IPC. A copy of the FIR is available and it is very clear that the name of the petitioner, Venkadeswaran, son of Kasi is given and it had been alleged that he among others had applied for passport enclosing a birth certificate stated to have been issued by Head Quarters Deputy Tahsildar, Thiruvadanai and Sub Registrar, Thiruvadanai, All those documents were fake and fabricated.

5.It is the contention of the petitioner that he is not an accused and that subsequent to the investigation, when the final report was filed, the petitioner had not been shown as accused or as a witness. A copy of the final report is also filed as document to the Writ Petition. It is seen that trial is in progress with respect to the said criminal case, which is registered as FIR No.23 of 2013 and the final report had actually been filed under Section 260, 468, 471 and 420 IPC and it had been subsequently altered into Sections 468, 471, 472, 201, 420 and 120(b) IPC and had been taken cognizance as C.C.No.104 of 2017 by the learned Judicial Magistrate-II, Ramanathapuram.

6.Let trial be completed. During the course of trial, since the name of the petition and identifying him with the name of the father has been stated, in the FIR also stating that he was one among those who had given a false certificate, there could be a possibility of learned Judicial Magistrate invoking the provisions under Section 319 Cr.P.C. It all depends upon the nature of evidence recorded during the course of trial.

7.The petitioner's name is found in the FIR. The offence has been taken cognizance. During the course of trial, the learned Judicial Magistrate has every power to issue summons to anybody against whom incriminating evidence is disclosed by any of the witness. Therefore, at this juncture, I am not inclined to grant the relief sought. Let the petitioner await the conclusion of trial and thereafter, approach the respondents seeking issuance of passport.



8.This Writ Petition is dismissed giving that liberty to the petitioner. No costs.

Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Regional Passport Officer,
Ministry of External Affairs,
Madurai.

2.The Superintendent Enquiry Officer,
Regional Passport Office Madurai,
Bharathi Ula Veethi, Race Course Road,
Madurai - 625 002, Tamil Nadu.

3.The Inspector of Police,
District Crime Branch Police Station,
Ramanathapuram District.

+1 CC to M/s.SPL.GP (SR-1023[F] dated 10/01/2022)

+1 CC to M/s.K.SATHISHKUMAR, Advocate (SR-1173[F] dated 11/01/2022)

W.P. (MD)No.21991 of 2021
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BK(CO)

KB(27.01.2022) 3P 6C