



W.P.(MD).No.24229 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD).No.24229 of 2022

and

W.M.P.(MD).Nos.18337 & 18339 of 2022

Karthick Veeranan

... Petitioner

vs.

- 1.The Regional Passport Officer,
O/o.Regional Passport Office,
Bharrathi Ula Veethi,
Race Course Road,
Madurai 625 002.
- 2.The Superintendent of Police,
Madurai,
Madurai District.
- 3.The Investigating Office,
Usilampatti Town Police Station,
Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned clarification under Letter Ref.No.SCN/313304143/22, dated 12.09.2022, issued by the first respondent and to quash the same as unwarranted and unlawful and



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further direct the first respondent herein to issue passport under File No.MD1064504814722, to the petitioner herein, within a time frame as fixed by this Court.

For Petitioner	: Mr.A.Azgaeson
For R1	: Mr.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 challenging the impugned clarification under Letter Ref.No.SCN/313304143/22, dated 12.09.2022, issued by the first respondent and to quash the same and further direct the first respondent to issue passport under File No.MD1064504814722, to the petitioner herein.

2. The case of the petitioner is that he has applied for passport under File No.MD1064504814722 and waiting for issuance of passport. But the first respondent has passed the impugned clarification under letter dated 12.09.2022, stating that he has been involved in a criminal case for the alleged offences under Sections 143, 188 and 285 of I.P.C., in Crime No.194 of 2016, on the file of Usilampatti Town Police Station.



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Challenging the same, the present writ petition has been filed.

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3. The learned Government Advocate (Crl.side) appearing for the respondents 2 and 3 would submit that F.I.R. has been registered against the petitioner in Crime No.194 of 2016.

4. The learned Assistant Solicitor General of India appearing for the first respondent would submit that the petitioner was asked to appear before the first respondent for clarification about the pendency of the criminal case registered against him and the petitioner did not appear before the authority and filed the present writ petition. Further, the first respondent could not proceed with the issuance of passport on the ground that F.I.R. has been registered against the petitioner.

5. The learned counsel for the Petitioner produced a decision of this Court in the case of ***W.Jaihar William and others .vs. The State of Tamil Nadu and others reported in 2014(2) CWC 684***, wherein, it has been observed as follows:

"8.....the applications submitted by the Petitioners for passport were not considered by the third respondent



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for the reason that FIRs are pending against them. The Superintendent of Police , Tirunelveli, has filed counter affidavits stating that First Information Reports have been filed against the Petitioners for the alleged offences, stated supra, since they are involved in the agitation against the Koodankulam Nuclear Project. So far as the Petitioner in W.P(MD)NO.8349 of 2014 is concerned, the criminal case has been registered under Sections 147, 148, 294(b), 353 and 307 IPC. Since the FIRs are pending against the Petitioners, the third respondent has not considered the applications of the Petitioners, by placing reliance on section 6(2)(f) of the Passports Act, 1967. Section 6(2)(f) reads as follows:

6. Refusal of passports, travel documents, etc---(i)....

(2) subject to the other provisions of this Act, the Passport Authority shall refuse to issue a passport or travel document for visiting any foreign country under Clause © of sub section (2) of Section 5 on any one or more of the following grounds and on no other ground namely:

(a) and (b).....

(f) that proceedings in respect of an offence alleged to have been committed by the Applicant are pending before the Criminal Court in India"

It is well settled legal principle that mere pendency of FIR



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cannot be construed as pendency of Criminal Proceedings in respect of the offences alleged to have been committed by the Applicant before the Criminal Court. Only after the Court takes cognizance of the offence alleged to have been committed by the Applicant, as stipulated under Section 190 of Cr.P.C, it can be construed as "proceedings pending before the Court".

6. This Court and various High Courts had allowed the Writ Petition of this nature on the ground that unless and until the Judicial Magistrate takes cognizance of the offence, the respondents/Officials cannot mechanically refuse to issue passport to the parties, stating that F.I.R., is pending and that mere pendency of F.I.R., cannot be construed as pendency of criminal proceedings and the same cannot be a bar for issuance of passport to the parties concerned.

7. In view of the above settled position of law, this Court directs the first respondent to consider the application submitted by the Petitioner in File No.MD1064504814722, dated 18.08.2022, if it is otherwise in order and issue appropriate orders regarding issuance of passport to the petitioner, within a period of six weeks from the date of



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receipt of a copy of this order.

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8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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To

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V.BHAVANI SUBBAROYAN,J.

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