



W.P.(MD).No.25303 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.25303 of 2022

K.Ramesh

... Petitioner

VS.

1.The Regional Passport Officer,
Regional Passport Office,
Thiruchirappalli,
New Municipal Complex,
Thillai Nagar 7th Cross,
Thiruchirappalli.

2.The Inspector of Police,
Vadakadu Police Station,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to consider the petitioner's passport Application No.TR2074354317722, dated 29.06.2022 and consequently, direct the 1st respondent to issue fresh passport to the petitioner, on the basis of the representation dated 03.10.2022 within the stipulated time by this Court.



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For Petitioner : Mr.S.T.Sasidharan Tamilkani
For R1 : Mr.L.Victoria Gowri
Assistant Solicitor General of India
For R2 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the 1st respondent to consider the petitioner's passport Application No.TR2074354317722, dated 29.06.2022 and issue fresh passport to the petitioner, based on his representation dated 03.10.2022.

2. The case of the petitioner is that he has applied for passport to the first respondent on 29.06.2022. The first respondent has sent a notice to the petitioner on 25.07.2022, stating that one criminal case is pending against the petitioner in Crime No.133 of 2015 for the offences under Sections 294(b), 342, 323 and 506(ii) of I.P.C., on the file of the second respondent police. Hence, the petitioner has made a representation to the



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first respondent on 03.10.2022, seeking to consider his application and to issue fresh passport to him. Since the said representation was not considered, the present writ petition has been filed.

3. The learned Government Advocate (Crl.side) appearing for the second respondent would submit that only F.I.R. is pending against the petitioner.

4. The learned counsel appearing for the petitioner has 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 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



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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 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



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committed by the Applicant, as stipulated under Section 190 of Cr.P.C, it an be construed as "proceedings pending before the Court".

5. 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.

6. In view of the above settled position of law, this Court directs the first respondent to consider the petitioner's Application No.TR2074354317722, dated 29.06.2022, 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 receipt of a copy of this order.



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

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Index: Yes/No

Internet: Yes/No

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To

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V.BHAVANI SUBBAROYAN,J.

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