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W.P(MD)No.25583 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 18.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.25583 of 2022

Rajeswari

.. Petitioner

Vs

1.The Regional Passport Officer,
Madurai Region,
Kochadai,
Madurai-625 002.

2.The Inspector of Police,
Bazaar Police Station,
Ramanathapuram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to re-issue the passport to the petitioner on the basis of her representation, dated 18.12.2018 made to the first respondent.

For Petitioner : Mr.R.Saravanan

For R1 : Mrs.L.Victoria Gowri
Deputy Solicitor General of India

For R2 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)



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4. The petitioner's husband is a citizen of country by name Brunei by domicile and he is residing there by way of running the business and after her marriage with her husband said Regunathasethupathi, she obtained the passport No.G5782774 on 17.10.2007 and in the said passport, one Ramachandran Thevar is mentioned as her father's name and after the said passport was issued by the office of passport at Thiruchirapalli, a male child was born in the year 2008. In order to go to her husband, who is in abroad, she made an application to the respondent herein to reissue the passport and on considering the application of the petitioner, the respondent reissued the passport to the petitioner and her male child in the year 2011 and 2012 respectively and by using the said passport, the petitioner along with her male child went to Brunei and thereafter, they returned back to India and such being the position, one Shanmuganathan, who is none other than the elder brother of the petitioner, made a complaint to the Bazaar police Station, Ramanathapuram alleging that the petitioner impersonated her husband photo by affixing the photo of the husband of sister-in-law of the petitioner in the affidavit filed along with the application in the year 2011 and the Bazaar police, Ramanathapuram have registered the case as against the petitioner in the year 2016 and as on date, no investigation has been initiated and no final report has been filed in Crime No.41 of 2016 and based on the registration of the FIR, the respondent authority



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by letter, dated 28.07.2016 asked the petitioner to give explanation for furnishing wrong information at the time of obtaining the passport and the petitioner herein gave explanation on 09.08.2016 and the petitioner surrendered her passport to the respondent and on the same day, the respondent issued the surrender certificate. Subsequently, the petitioner filed the petition in Crl.O.P.No.20874 of 2016 to quash the FIR in Crime No.41 of 2016 before this Court. During the pendency of the said petition, she made a representation on 18.12.2018 to the respondent to re-issue the passport to the petitioner, whereas, without considering the request of the petitioner, the respondent orally refused to reissue the passport by referring the criminal case, pending as against the petitioner and in such circumstances, this Court by order dated 12.10.2020 directed the police to file the final report within a period of 8 weeks, whereas, even now, the police have not filed the report and thereby, the petitioner is not able to obtain the passport and Court already held in various cases that the passport authority cannot refuse to re-issue the passport, merely because of the registration of the FIR. Being left with no other alternative efficacious remedy, the petitioner constrained to file this writ petition before this Court.

5. The learned Government Advocate (Crl.side) appearing for the second respondent would submit that the petitioner has filed



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CrI.O.P(MD)No.20874 of 2016 seeking to quash the FIR in Cr.No.41 of 2016. This Court, by order dated 12.10.2020 dismissed the said petition, however, directed the first respondent therein to complete the investigation in Cr.No.41 of 2016 and file a final report within a period of eight weeks from the date of receipt of a copy of the order, before the jurisdiction Magistrate, if not already filed. Now, the investigation has been completed and the charge sheet has been filed before the learned Judicial Magistrate No.I, Ramanathapuram on 10.11.2022 and same was assigned with online filing No.CC/11857/2022 and within a weeks time main number would be assigned. If the petitioner is issued with passport, then there is a possibility of prolonging the trial by leaving the country. The petitioner is having criminal antecedents, therefore, she is not entitled for the prayer sought for by him. Hence, the petitioner's case cannot be considered at this stage and prayed for dismissal of the writ petition.

6. The learned Deputy Solicitor General of India, appearing for the first respondent would submit that the petitioner is having criminal antecedents as she has forged the photograph and obtained two passports, which shows that she is not following the countries rules and regulations and hence, the petitioner's claim cannot be considered on mercy ground.



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7. It is seen from the averments made in the counter affidavit that the petitioner has forged the sister-in-law's husband photo as that of her husband and obtained a passport based on the false materials and this attracts section 12(I)(b) and 12(2) of the Passport Act 1967. Hence, this Court is not inclined to issue a writ of mandamus for directing the authorities to issue a passport.

8. Accordingly, the Writ Petition stands dismissed. No costs.

18.11.2022

Index : Yes/No
Internet:Yes/No
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To

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V.BHAVANI SUBBAROYAN,J

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