



**W.P.(MD).No.26222 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.26222 of 2022**

Rajkumar Maruthan

... Petitioner

VS.

1.The Passport Officer,  
Regional Passport Office,  
Municipal Water Tank Building,  
W.B.Road, Trichy-620008

2.The Inspector of Police,  
Pattukottai Town Police Station,  
Thanjavur District.

3.The Inspector of Police,  
All Women Police Station,  
Pattukottai,  
Thanjavur District.

... Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to issue a passport to the petitioner, based on his application No.TR1063966011122 dated 18.02.2022, within the time stipulated by this Court.



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For Petitioner : Mr.K.M.Karunakaran  
For R1 : Mr.L.Victoriya 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 first respondent to issue a passport to the petitioner, based on his application No.TR1063966011122 dated 18.02.2022.

2. The case of the petitioner is that he has applied for passport before the first respondent on 18.02.2022 and his application number is TR1063966011122. On receipt of the same, the first respondent has issued a letter to the petitioner on 14.03.2022, requesting him to appear before the first respondent and give explanation about the Crime Nos.5 of 2020 and 7 of 2022. The petitioner also appeared before the first respondent and furnished all the particulars relating to the criminal cases.

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However, his application was not considered. Hence, the petitioner has made a representation to the first respondent on 11.11.2022. Since no action was taken by the first respondent, the present writ petition has been filed.

3. The learned Government Advocate (Crl.side) appearing for the respondents 2 and 3 would submit that five criminal cases are pending against the petitioner in F.I.R. stage.

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*



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*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 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*



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*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".*

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.TR1063966011122 dated 18.02.2022, if it is otherwise in order and pass 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.

**21.11.2022**

Index: Yes/No

Internet: Yes/No

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**V.BHAVANI SUBBAROYAN,J.**

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