

**HON'BLE SRI JUSTICE K. LAKSHMAN**

**WRIT PETITION No.44927 of 2022**

**ORDER:**

Heard Sri V. Brahmaiah Chowdary, learned counsel appearing for the petitioner and B. Jithender, learned counsel appearing for the respondents. Perused the record.

Petitioner is holder of Passport bearing No.H9437938. It was expired on 11-07-2020. Petitioner herein has submitted an application dated 10-09-2020 for renewal of the said Passport. It was rejected vide order dated 16-10-2020 on the ground that petitioner herein is an accused in C.C.Nos.1586 and 1587 of 2020 pending on the file of Judicial Magistrate of First Class, Kodad.

Perusal of the said proceedings would reveal that the petitioner is accused in the aforesaid C.C.Nos.1586 and 1587 of 2020. The offences alleged against the petitioner are under Sections 419, 406, 420, 386, 331, 468, 511, 323 and 506 of IPC.

Just because the petitioner is arraigned as accused in the aforesaid C.Cs., respondent No.2 cannot reject the application submitted by the petitioner seeking renewal of Passport. However, petitioner contends that he was falsely implicated in the aforesaid cases. Further, he is also ready to co-operate with the trial in the said C.Cs. Therefore, he sought to issue necessary directions to the respondent for consideration of his application to renew his passport.

As per Section 10(3) of Cr.P.C., if petitioner is convicted, respondent No.2 can reject the request made by the petitioner to renew Passport.

It is also relevant to note that the Apex Court in **Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation**<sup>1</sup> had an occasion to examine the provisions of the Passports Act, pendency of criminal cases and held that refusal of a passport can be only in case where an applicant is convicted during the period of five (05) years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment

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<sup>1</sup>. 2020 CrI.L.J. (SC) 572

for not less than two years. Section 6.2 (f) relates to a situation where the applicant is facing trial in a criminal Court. The petitioner therein was convicted in a case for the offences under Sections - 420, 468, 471 and 477A read with 120B of the IPC and also Section - 13 (2) read with Section 13 (1) of the Prevention of Corruption Act, 1988. Against which, an appeal was filed and the same was dismissed. The sentence was reduced to a period of one (01) year. The petitioner therein had approached the Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Apex Court held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Apex Court directed the Passport Authority to renew the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal appeal in S.C.

The petitioner herein is on better footing. He is not convicted in any of the aforesaid C.Cs. The aforesaid C.Cs. are pending before the aforesaid Court. Therefore, the

impugned proceedings dated 16-10-2020 are contrary to the provisions of Passports Act and also the principle laid down by the Hon'ble Apex Court in **Vangala Kasturi Rangacharyulu**<sup>1</sup>. In view of the same, respondent No.2 cannot deny or refuse to renew the passport of the petitioner.

In view of the aforesaid discussion, this writ petition is allowed. Impugned proceedings dated 16-10-2020 are set aside. Respondent No.2 is directed to consider the application vide file No.HYA073010774720 dated 10-09-2020 submitted by the petitioner seeking renewal of his passport on the following conditions:-

- i) The petitioner herein shall submit an undertaking along with an affidavit in C.C.Nos.1586 and 1587 of 2020 pending on the file of Judicial Magistrate of First Class, Kodad, stating that he shall not leave India during pendency of the said C.Cs. without permission of the Court and that he shall co-operate with trial Court in concluding the proceedings in the said C.C.

- ii) On filing such an undertaking as well as affidavit, the trial Court shall issue a certified copy of the same within two (02) weeks therefrom;
- iii) The petitioner herein shall submit an application afresh along with certified copy of this order as well as the aforesaid undertaking before the Passport Officer/ Authority concerned for renewal of his passport;
- iv) On filing such an application, the Passport Officer/Authority shall consider the same afresh in the light of the observations made by this Court herein as well as the contents of the undertaking given by the petitioner for re-issue of his passport in accordance with law, within three (03) weeks from the date of said application;
- v) On renewal of the Passport, the petitioner herein shall deposit the original renewed passport before the trial Court in C.C.Nos.1586 and 1587 of 2020 pending on the file of Judicial Magistrate of First Class, Kodad; and
- vi) However, liberty is granted to the petitioner herein to file an application before the learned Magistrate seeking permission to travel abroad,

and it is for the learned Magistrate to consider the same in accordance with law.

However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.

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**K. LAKSHMAN, J**

**December 15, 2022**

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