

HON'BLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION No.45271 OF 2022

ORAL ORDER:

Heard Mr. Nimma Narayana, learned counsel for the petitioner, Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India appearing on behalf of the respondent.

2. Perusal of the record would reveal that the petitioner herein is the holder of Passport bearing No.K-9166393 and the same is valid up to 24.03.2023. She has applied for renewal of her Passport vide Application No.HY75C5062658722, dated 17.08.2022. But, the respondent vide letter No.SCN/31373737899/22, dated 16.11.2022, sought clarification from the petitioner with regard to pendency of nine (09) criminal cases against the petitioner viz., Crime Nos.117 to 125 of 2021 registered for the offences under Sections - 420, 447, 427 and 506 read with 149 of IPC of Lingala Ghanpur Police Station and that the same were taken on file vide C.C. Nos.1024 of 1032 of 2021 pending on the file of Judicial Magistrate of First Class, Jangaon. Therefore, she was called upon to submit a suitable explanation within thirty (30) days.

3. Accordingly, the petitioner herein had submitted his explanation on 06.12.2022 stating that she was falsely implicated in the said cases and that she is ready to co-operate with trial in the aforesaid cases and accordingly she requested the respondent to re-issue passport.

4. The above stated facts would reveal that the petitioner herein had applied for issue of new Passport. The respondent is not issuing passport to the petitioner on the ground of pendency of the aforesaid criminal cases. Now, the petitioner herein contends that aforesaid said crimes were registered against her falsely arising out of land disputes. Now, she intends to visit USA to take care of her daughter. On account of non-issuance of passport, she will be deprived of an opportunity to look after her daughter who requires her need and help.

5. It is also relevant to note that the Apex Court in **Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation**¹ 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

¹. 2020 Cr.L.J. (SC) 572

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 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.

6. The aforesaid crimes were registered for the offences under Sections - 420, 447,427 and 506 read with 149 of IPC of Lingala Ghanpur Police Station. Mere pendency of criminal cases is no ground to decline renewal of passport. Further, she is also ready to co-operate with the trial Court in concluding the trial. The petitioner herein is standing on better footing than the petitioner in **Vangala Kasturi Rangacharyulu**¹. Therefore, she sought to issue necessary directions to the respondent for consideration of her application for renewal of passport.

7. In view of the aforesaid discussion, this writ petition is allowed directing the respondent to consider the Application No.HY75C5062658722, dated 17.08.2022 submitted by the petitioner seeking re-issue of passport to her on the following conditions:

- i) The petitioner herein shall submit an undertaking along with an affidavit before the learned Judicial Magistrate of First Class at Jangaon in C.C.No.1024 of 2021 stating that she shall not leave India during pendency of the said C.C. and other cases without permission of the Court and

that she shall co-operate with trial Court in concluding the proceedings in the said C.Cs.;

- 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 issue of 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 issue of passport in accordance with law, within three (03) weeks from the date of said application;
- v) On issuing Passport, the petitioner herein shall deposit the original Passport before the trial Court in C.C.No.1024 of 2021; 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, there shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the writ petition shall also stand closed.

20th December, 2022

Mgr

K. LAKSHMAN, J