

D/L. 14.
December 6, 2023.
MNS.

WPA No. 22341 of 2023

Sudipta Sankar Nandi and another
Vs.
Union of India and others

Mr. Subhodip Biswas,
Ms. Dona Saha

... for the petitioners.

Mr. A. K. Chakraborty,
Mr. Kumar Jyoti Tewari

...for the respondents.

1. The petitioners are spouses, who have been embroiled in several criminal complaints. In respect of one of the complaints, a criminal case has commenced and in respect of the other, investigation is still going on and an order has been passed by a co-ordinate Bench restraining the Investigating Agency from filing of the final report without the leave of court.
2. Learned counsel submits that when the petitioners approached the Chief Judicial Magistrate for a leave regarding renewal of passports, the Chief Judicial Magistrate washed off his hands on the premise that it

has nothing to do in respect of the petitioners' applications for renewal of passports.

3. It is submitted that since the petitioners' passports have already expired some time back and the petitioners have applied for renewal of the same in the year 2022, the Passport Authorities are required to renew such passports by processing the applications of the petitioners.
4. Learned Additional Solicitor General appearing for the Passport Authorities places reliance on an Office Memorandum bearing Notification No. GSR 570(E) dated August 25, 1993, which enumerates that the citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, are exempted from the various provisions of Clause (f) of sub-section (2) of Section 6 of the Passports Act, 1967 (1967 Act).
5. The said Notification also put in certain riders, which primarily pertain to the tenure of the passport to be granted. Where the period is

specified in the order of the court, the period for which the passport is issued coincides with the same and otherwise, generally one year is the default tenure for which a passport is issued.

6. In the absence of any proper order from the jurisdictional court, it is submitted that the passport authority cannot renew the passport of the petitioners.
7. A perusal of the order of the Chief Judicial Magistrate at Alipore indicates that the Chief Judicial Magistrate was justified in passing the same in the sense that the complaint in regard to which the petitioners made applications before the court have not yet reached the stage of trial. Since investigation is going on and the final report in connection therewith has been restrained by a co-ordinate Bench, it cannot be said that criminal trial has commenced with regard to the second such offence.
8. However, there is already a pending criminal case with regard to the other offences alleged against the present petitioners from which court the petitioners are required to obtain orders within the contemplation of Section

6(2)(f) of the 1967 Act which has been referred in the Notification-in-question.

9. In fact, learned counsel for the petitioners has cited a subsequent Office Memorandum dated October 10, 2019 which refers back to the Notification dated August 25, 1993 relied on by the respondents, which still holds the field.

10. Thus, WPA No. 22341 of 2023 is disposed of by granting the petitioners liberty to approach the concerned jurisdictional criminal court where the criminal trial is pending against the petitioners for obtaining an order within the contemplation of Section 6(2)(f) of the 1967 Act.

11. If such an application is made under the aforesaid provision, the concerned court shall deal with the same and pass an order thereon at the earliest, preferably within a week from making such application.

12. Upon an order being passed, if the order permits the petitioners to leave the country, the petitioners will be at liberty to approach the Passport Authorities. The Passport Authorities shall process such applications of the petitioners in the light of the order of the criminal court by adhering to GSR 570(E)

dated August 25, 1993 and accordingly, if the petitioners are so entitled under the said provisions, renew the passports of the petitioners immediately.

13. It is expected that upon such approach being made, the Regional Passport Office, that is, the respondent no. 3, shall process the petitioners' applications expeditiously as possible.

14. There will be no order as to costs.

15. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)