



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.02.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 34129 of 2022

Senthil Marison Subba

... Petitioner

..Vs..

1. The Regional Passport Officer
Regional Passport Office,
Coimbatore, First Floor,
Corporation Commercial Complex,
Opp. Thandumariamman Koil,
Avinashi Road, Coimbatore,
Tamil Nadu – 641 018.

2. The Inspector of Police
R.S.Puram Police Station
Coimbatore City,
Coimbatore.

... Respondent

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the first respondent to consider the petitioner's explanation dated 06.08.2022, delivered to the first respondent on 08.08.2022 and drop all further proceedings to impound the petitioner's passport bearing No. V7354617, dated 29.04.2022.



For Petitioner :: Mr. K.R.Samratt

For 1st Respondent :: Mr. A.Veeramani
Central Government Counsel

For 2nd Respondent :: Mrs. Geetha Thamarai Selvan
Special Government Pleader

ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction to the first respondent / the Regional Passport Officer at Coimbatore, to consider the explanation dated 06.08.2022 offered by the petitioner and to drop further proceedings to impound the passport of the petitioner bearing No.V7354617, dated 29.04.2022.

2. In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner along with others had entered into a Joint Venture Agreement on 10.02.2011 for the purpose of constructing multi storied Residential Apartment and Villas. As would be evident from that one statement itself, it is definitely surrounded with alone possibility of litigations.



3. An FIR in Crime No. 522 of 2019 had been registered on a complaint preferred by the Manager of Bank of India under Sections 120B, 406 and 420 IPC by the second respondent/ Inspector of Police, R.S. Puram Police Station, Coimbatore City, Coimbatore, against the petitioner and others. The petitioner was categorised as the 9th respondent. In view of that particular fact, namely, the registration of the FIR, the first respondent/Regional Passport Officer had issued a notice to the petitioner stating that the petitioner should surrender the original passport. The petitioner had given an explanation and thereafter, filed the present Writ Petition.

4. The registration of an FIR is on the basis of an information alone given to the police officials. It is reduced in writing and thereafter, there is an obligation on the Investigating Officer to conduct investigation. After conducting investigation, if a final report is filed, then the same will have to be taken cognizance by the jurisdictional Court and thereafter, the trial process starts. During all these stages, the petitioner can never be termed as convicted person. There is a strong presumption of innocence which runs through the criminal jurisprudence in this country and unless



convicted by a competent criminal Court, no person can be castigated for the sole purpose that a FIR has been registered against him or her. The first respondent may therefore withdraw the notice calling upon the petitioner to surrender passport.

5. The petitioner is at liberty to retain the passport. If at all, consequent to investigation done, a final report is filed and is taken cognizance by the competent criminal Court, then on receipt of summons if the petitioner seeks to go abroad, then he must go abroad only after obtaining permission from the Criminal Court, which had taken cognizance of the final report/where trial is in progress.

6. Recording as above, the Writ Petition stands allowed. No order as to costs.

01.02.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order



WEB COPY To

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C.V.KARTHIKEYAN, J.,

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