



W.P.(MD)No.1552 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1552 of 2023

V.Ajith Kumar

... Petitioner

Vs.

1.The Assistant Passport Officer,
Passport Office,
Trichy.

2.The Inspector of Police,
Kumbakonam Taluk Police Station
Kumbakonam,
Thanjavur District.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the record pertaining to the order passed in F.No. TR1086749393122 dated 17.01.2023 passed by 1st respondent and quash the same and further direct the 2nd respondent to forward police clearance report to the 1st respondent for issuance of police clearance certificate.

For Petitioner : Mr.T.S.Mohamed Mohideen

For R1 : Mr.V.S.Karthi
Senior Panel Counsel

For R2 : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)



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ORDER

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Heard the learned counsel on either side.

2. The petitioner has applied and obtained passport from the first respondent herein. It is valid up to 2031. The petitioner has now secured overseas job offer. However, the employer will insist on police clearance certificate. Without such a police clearance certificate, the petitioner will not be able to report for duty. When the petitioner applied to the first respondent, the first respondent informed the petitioner that his application cannot be processed without clear police verification report from the concerned authorities. Challenging the stand of the first respondent, the present writ petition has been filed.

3. The petitioner is figuring as Accused No.2 in Crime No.965 of 2021 on the file of the Inspector of Police, Kumbakonam Taluk Police station. The case has been registered for minor offences. The petitioner's aunt is said to have given complaint. The petitioner is figuring only as Accused No.2.



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4. The learned Government Advocate appearing for the second respondent clarifies that final report has been filed before the learned Judicial Magistrate No.II, Kumbakonam, but that it has not been taken on file till date. In a similar writ petition I had passed an order dated 14.02.2019 in W.P.(MD)No.25320 of 2018 which reads as follows:

"3.The petitioner also wants the second respondent to issue a police clearance certificate. The second respondent obviously will have to mention the crime number in which the petitioner is implicated. This Court cannot dictate the second respondent to submit his report to the first respondent in a particular manner. The second respondent will state the fact in his report. The first respondent is directed to issue the clearance certificate as per law. This shall be done within a period of two weeks from the date of receipt of a copy of this order."

5. It is well settled that pendency of criminal case in FIR stage is not an impediment for issuance of passport. In this case since cognizance has not been taken, I have to proceed on the presume that there is no criminal proceedings pending on the file of any Court as of now.

6. The second respondent is directed to send Police Clearance Certificate to the first respondent setting out the bare facts. Registration



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of the FIR against the petitioner and the fact that the final report has been filed and that cognizance is yet to be taken can very well be mentioned in the said report. This shall be done by the second respondent within a period of seven days from the date of receipt of a copy of this order. After receipt of such a report from the first respondent, the first respondent will issue the clearance certificate as per law within a period of two weeks thereafter.

7.This writ petition is allowed on these terms. No costs.

28.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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