



W.P.(MD)No.1615 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1615 of 2023

A.Rabiath Basariya

... Petitioner

Vs.

1.The Regional Passport Officer,
Madurai Region,
Bharathi Ula Street,
Race Course,
Madurai -7.

2.The Inspector of Police,
All Women police station,
Madurai City,
Madurai.

3.Mohammed Mohideen

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to impound the passport of 3rd respondent bearing no. Z5448853 issued by the 1st respondent based on the petitioners representation dated 30.12.2022.



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For Petitioner : Mr.A.Ramesh
For R1 : Mr.G.Rajaraman
Central Government Standing Counsel
For R2 : Mr.Thanga Aravindh
Government Advocate (Crl.side)
For R3 : Mr.N.Thaminul Ansari

ORDER

Heard the learned counsel on either side.

2.The writ petitioner claims to be the daughter in law of the third respondent. According to the writ petitioner, the marriage between her and one Abdul Gani was dissolved on 03.03.2020. Thereafter, she married Mohamed Mathani, the son of the third respondent herein. This claim is contested by the third respondent.

3. I do not want to go into the merits of the controversy. The fact remains that the petitioner is the defacto complainant in Crime No.6 of 2022 registered on the file of the All Women Police Station, Madurai Town, for the offences under Sections 498(A) and 506(i) of IPC. The third respondent herein is figuring as the second accused in the said case. Investigation is still pending and final report is yet to be filed.



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4. The petitioner has also filed DVC No.30 of 2022 on the file of the Mahila Court (Magisterial Level), Madurai. The third respondent is figuring as the second respondent in the said petition. The petitioner has also filed DVC No.89 of 2022 on the file of the very same Court. In the said petition also, the third respondent herein is figuring as the second respondent. The third respondent is a holder of Indian passport. He is a Indian citizen. He now wants to go on a holy trip(UMRA). The purpose of overseas visit is also contested by the writ petitioner.

5. The counsel for the petitioner states that the petitioner is likely to flee from the arm of justice. The petitioner apprehends that the third respondent may abscond and that the proceedings initiated by her may be indefinitely stalled. That is why the petitioner has filed the present writ petition for impounding the passport of the third respondent.

6. The third respondent through his counsel gives the following undertaking.

a) The third respondent will furnish all his contact details so that he can be reached wherever he is (details of the petitioner's mobile phone contact numbers and e-mail id can be furnished to the second respondent).



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b)The third respondent shall appear before the jurisdictional criminal Court in response to any summon that may be issued by him. If he is unable to do so, he shall make appropriate arrangement, so that he can be represented. If need be, the petitioner also will have to execute special vakalat to authorise any counsel to represent him.

c) On account of the petitioner's absence from India, the proceedings against the third respondent shall not be stalled and that they should go on. The petitioner also undertakes to enter appearance before the Mahila Court(Magisterial level) in both the DVCs filed by the petitioner herein.

7.The counsel states that tomorrow(03.03.2023) itself, the third respondent will file a vakalat. He is also undertakes that the third respondent will not adopt any dragging on tactics.

8.If the third respondent breaches the undertaking now given before this Court, consequences will follow. The petitioner will be at liberty to file a petition for contempt of Court also. The second respondent is directed to file final report in Crime No.6 of 2022 within a period of eight weeks. I make it clear that I have not gone into the merits of the allegations made by the petitioner.



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9. The learned Judge, Mahila Court(Magisterial level), Madurai, shall dispose of the DVCs file by the petitioner's herein on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. I once again clarify that merely because I have given this direction it shall not be understood mean that I endorse the allegations against the third respondent. All the contentions of the contesting respondent are fully open.

10. This writ petition is disposed of accordingly. No costs.

02.03.2023

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

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G.R.SWAMINATHAN,J.

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To

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Madurai Region,
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Race Course,
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2.The Inspector of Police,
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Madurai City,
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