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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.3754 of 2023
and
W.M.P(MD) No.3529 of 2023

Kavitha Nageswaran ... Petitioner

Vs.

1.The Director Ministry of External Affairs,
Government of India,
Room No.3, Patiala House Annexe,
CPV Division,
Ministry of External Affairs,
Tilak Marg,
New Delhi - 110 001.

2.The Principal Secretary
Ministry of External Affairs Government of India,
No.68 College Road,
EVK Sampath Maaligai,
7th Floor,
Nungambakkam,
Chennai - 600 006.

3.The Regional Passport Officer
Office of the Regional Passport Office Madurai,
Bharathi Ula Veedhi,
Race Course Road,
Madurai. ... Respondents

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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in Letter Ref. No. SCN/314292417/23 dated 17.02.2023 on the file of the third respondent herein and quash the same and consequently directing the third respondent to Re-issue passport in Re-issue application submitted by the petitioner and in file No.MD1074857663533 dated 12.12.2022 on the file of the third respondent.

For Petitioner : Mr.V.Illanchezian,
for Mr.A.Chandrasekaran
For Respondents : Mr.J.Alaguram Jothi

O R D E R

The writ petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to the proceedings in letter reference No.SCN/314292417/23 dated 17.02.2023 on the file of the third respondent, the Regional Passport Officer, Madurai and quash the same and consequently, direct the said respondent to re-issue the passport in reissue application submitted by the petitioner in file No.MD/1074857663522 dated 12.12.2022.

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2. The petitioner, is the holder of Indian Passport No.E1210728 which was valid from 16.02.2002 to 15.02.2012. She is working as a Teacher in a School at Madurai. Her daughter had completed Higher Secondary and had joined graduation at Bangalore. The petitioner had not renewed the passport. Thereafter, she had applied for renewal. The petitioner had herself voluntarily disclosed that there were two pending cases namely, C.C.No.164 of 2018 on the file of the Judicial Magistrate Court, Sivakasi, for the offence under Section 138 of Negotiable Instruments Act and C.C.No.175 of 2020 on the file of the Judicial Magistrate, (Fast Track Court), Coimbatore, also for the offence under Section 138 of Negotiable Instruments Act.

3. It had been stated that the petitioner had also filed Crl.O.P.(MD) No.1534 of 2021 questioning further progress of C.C.No.175 of 2020 aforementioned and the High Court had also granted an order of interim stay in Crl.M.P.(MD)No.890 of 2021 dated 05.02.2021. The trial in C.C.No.164 of 2018 is on going. The third respondent, in view of the said two calendar cases pending against the petitioner had taken a decision to reject the renewal of a passport.

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Aggrieved against that particular decision, the present writ petition has been filed.

4. Heard the learned counsel on either side and perused the materials available on record.

5. It is trite to point out that any complaint of offence under section 138 of Negotiable Instruments Act, is only a proceedings under Section 200 of Code of Criminal Procedure, which can be termed as a 'private complaint'. It is for the offence of issuing a cheque, with the allegations that the cheque was so issued with knowledge that there was no amount with the bank to honour the cheque. The issues are still pending trial. In one of the case the issue is pending trial and in the other case holding a prima facie view the High Court had granted stay of further proceedings. By no stretch of imagination can the petitioner be termed as a convicted accused. The presumption of innocence till conviction is passed by the competent Judicial Magistrate Court or a criminal Court runs through the criminal jurisdiction of this Country. The reason of pendency of two criminal cases which had been voluntarily

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disclosed by the petitioner cannot be held against the petitioner herein.

6. In view of these reasons, I will issue a direction to the third respondent to process the renewal of the application of the petitioner herein aforementioned and if the petitioner is otherwise eligible for grant of passport, proceed to reissue the passport as applied for by the petitioner herein. If required, the third respondent may also take any undertaking from the petitioner herein regarding disclosure of further progress of the two calendar cases. The entire process should be completed by the third respondent within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

16.03.2023

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

RM

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C.V.KARTHIKEYAN, J.

RM

W.P(MD)No.3754 of 2023

16.03.2023

https://www.mhc.tn.gov.in/judis