



WP(MD)No.8200 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**WP(MD)No.8200 of 2023**

Asaithambi

.. Petitioner

v.

1.The Regional Passport Officer,  
Regional Passport Office,  
Tiruchirappalli New Municipal Complex,  
Thillainagar 7<sup>th</sup> Cross,  
Trichy – 620 018.

2.The Inspector of Police,  
Gandarvakottai Police Station,  
Pudukottai District.

3.The Inspector of Police,  
Ganesh Nagar Police Station,  
Pudukottai District.

4.The Inspector of Police,  
Pudukottai Town Police Station,  
Pudukottai.

5.The Inspector of Police,  
Sampathuviduthi Police Station,  
Pudukottai District.

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to issue passport to the petitioner on the basis of his application dated 31.08.2022 pending in File No.TR106454961122 within a stipulated time limit.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.S.Paramasivam,  
Central Government Standing Counsel  
for R.1

Mr.P.Kottaichamy,  
Government Advocate (Crl. Side)  
for R.2 to R.5

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### **ORDER**

The petitioner's application for passport was not considered by the Passport Authority, on the ground that several cases are pending as against this petitioner. In this regard, a show cause notice was issued by the first respondent calling upon the petitioner to offer his explanation. The petitioner, with an apprehension that the passport would not be issued to him, has moved this writ petition.



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2. When the writ petition came up for hearing on 21.07.2023, learned Government Advocate (Crl. Side), on instructions, submitted that the petitioner has involved in the following cases:-

| S.No | Station                        | Crime No. | Section of Law    | Stage             | Charged on |
|------|--------------------------------|-----------|-------------------|-------------------|------------|
| 1    | Town PS, Pudukottai            | 91/2022   | 143, 283 IPC      | Not taken on file | 30.03.2022 |
| 2    | Town PS, Pudukottai            | 130/2022  | 143, 283 IPC      | Not taken on file | 21.03.2022 |
| 3    | Ganesh Nagar PS, Pudukottai    | 580/2020  | 143, 283, 270 IPC | Not taken on file | 01.11.2020 |
| 4    | Gandharvakottai PS, Pudukottai | 80/2018   | 143, 188 IPC      | Not taken on file | 22.05.2018 |
| 5    | Gandharvakottai PS, Pudukottai | 102/2019  | 143, 341 IPC      | Not taken on file | 09.05.2019 |
| 6    | Gandharvakottai PS, Pudukottai | 6/2020    | 143, 283, 341 IPC | Not taken on file | 08.01.2020 |
| 7    | Gandharvakottai PS, Pudukottai | 137/2020  | 153, 511 IPC      | Not taken on file | 30.04.2020 |



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|    |                                |          |                        |                    |                                   |
|----|--------------------------------|----------|------------------------|--------------------|-----------------------------------|
| 8  | Gandharvakottai PS, Pudukottai | 175/2020 | 143, 283, 269, 270 IPC | Not taken on file  | 21.04.2020                        |
| 9  | Gandharvakottai PS, Pudukottai | 328/2020 | 143, 283, 269, 270 IPC | Not taken on file  | 15.06.2020                        |
| 10 | Gandharvakottai PS, Pudukottai | 280/2020 | 143, 283, 269, 270 IPC | Not taken on file  | 22.05.2020                        |
| 11 | Gandharvakottai PS, Pudukottai | 343/2020 | 143, 283, 269, 270 IPC | Not taken on file  | 26.06.2020                        |
| 12 | Gandharvakottai PS, Pudukottai | 414/2020 | 143, 283, 269, 270 IPC | Not taken on file  | 05.08.2020                        |
| 13 | Gandharvakottai PS, Pudukottai | 647/2020 | 143, 283, 269, 270 IPC | Not taken on file  | 15.09.2020                        |
| 14 | Gandharvakottai PS, Pudukottai | 752/2021 | 143, 283, 269, 270 IPC | Not taken on file  | 16.12.2021                        |
| 15 | Gandharvakottai PS, Pudukottai | 255/2022 | 143, 283 IPC           | Not taken on file  | 27.06.2023                        |
| 16 | Gandharvakottai PS, Pudukottai | 486/2020 | 143, 283, 269, 270 IPC | Not taken on file  | 15.09.2020                        |
| 17 | Semmattividuthi PS, Pudukottai | 50/2017  | 341, 143, 188 IPC      | STC. 010020 1/2017 | Closed on 30.06.2023 u/s.258 CrPC |



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3. From the above, it appears that the petitioner has involved in 17 cases, of which, one case has been closed and insofar as the remaining 16 cases are concerned, though charge sheet was filed, it was not taken on file. Since the final reports, though filed in the years 2018, 2019, 2020, 2021, 2022, are not taken on file, this Court, by order dated 17.08.2023, directed the Registry to call for an explanation from the Magistrates concerned, as to why the final reports have not been taken on file.

4. Pursuant to the orders of this Court, the learned Judicial Magistrate No.1, Pudukottai and the learned District Munsif cum Judicial Magistrate, Gandarvakottai Taluk, Pudukottai have submitted their explanations.

**Judicial Magistrate Court No.1, Pudukottai:-**

| S.No. | Case No. | Remarks                                                            |
|-------|----------|--------------------------------------------------------------------|
| 1     | 91/2022  | FIR alone was received on 13.06.2022 and no final report was filed |
| 2     | 130/2022 | Neither FIR nor any final report was produced before the Court     |
| 3     | 580/2020 | Neither FIR nor any final report was produced before the Court     |



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**District Munsif cum Judicial Magistrate Court, Gandarvakottai:-**

| S.No. | Case No. | Remarks                          |                                        |
|-------|----------|----------------------------------|----------------------------------------|
| 1     | 80/2018  | Final report filed on 02.09.2023 | STC.No.173/2023                        |
| 2     | 6/2020   | Final report filed on 02.09.2023 | STC.No.169/2023                        |
| 3     | 137/2020 | Final report filed on 02.09.2023 | STC.No.170/2023                        |
| 4     | 175/2020 | Final report filed on 02.09.2023 | STC.No.171/2023                        |
| 5     | 328/2020 | Final report filed on 02.09.2023 | STC.No.164/2023                        |
| 6     | 280/2020 | Final report filed on 02.09.2023 | STC.No.167/2023                        |
| 7     | 343/2020 | Final report filed on 02.09.2023 | STC.No.165/2023                        |
| 8     | 414/2020 | Final report filed on 02.09.2023 | STC.No.166/2023                        |
| 9     | 752/2021 | Final report filed on 02.09.2023 | STC.No.168/2023                        |
| 10    | 255/2022 | Final report filed on 02.09.2023 | STC.No.172/2023                        |
| 11    | 102/2019 | Final report filed on 02.09.2023 | Closed on 11.08.2023<br>u/s.468 Cr.P.C |
| 12    | 647/2020 | Final report filed on 02.09.2023 | Closed on 11.08.2023<br>u/s.468 Cr.P.C |
| 13    | 486/2020 | Final report filed on 02.09.2023 | Closed on 11.08.2023<br>u/s.468 Cr.P.C |



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5. On 21.07.2023, it was represented on behalf of the Police that the charge sheets, though filed, were not taken on file. However, the reports of the Judicial Officers dated 02.09.2023 speak otherwise. This Court refrains from dwelling into this chapter any further, however, directs the Superintendent of Police, Pudukottai District, to look into this episode and take appropriate action as against the officials for having furnished false information before the Court.

6. Insofar as the relief sought for by the petitioner is concerned, it appears that apart from FIRs, criminal cases are also pending as against the petitioner before the Courts concerned.

7. Pendency of an FIR, by itself, cannot be a ground to refuse the passport. At the same time, the Passport Authority can refuse the passport and any travel documents under Section 6 of the Passport Act, 1967. Section 6(2)(F) of the Act would be relevant and the same is extracted as under:-



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*“6.Refusal of passports, travel documents, etc-*

*... (2)Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely -*

*...*

*(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India.”*

8.The above provision enables the Passport Authority to refuse the passport or travel document to an applicant on the ground that proceedings in respect of an offence alleged to have been committed by the applicant is pending before a Criminal Court.

9.The Ministry of External Affairs, Government of India, has issued a statutory notification in GSR.570(E) dated 25.08.1993 with certain guidelines by providing relief to those applicants against whom criminal proceedings are pending before the Courts that they can obtain the passport



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by obtaining No Objection Certificate from the concerned Court and also

by filing an undertaking as prescribed in the notification.

10. Ordinarily, the duration of a passport as per Rule 12 of the Passport Rules is for a period of 10 years. In the event if the applicant is facing any criminal proceedings, the passport may be issued by restricting the period. Therefore, the Passport Authority is not justified in not deciding the application filed by the petitioner for renewal of passport by referring the pendency of any criminal case before the Court.

11. Accordingly, this writ petition is disposed of with the following directions:-

i) The petitioner shall file an affidavit of undertaking along with substantive sureties to ensure his availability for the trial, before the concerned Courts where the criminal cases are pending. The Courts, on satisfaction and after ensuring his availability for the trial, shall issue a No Objection Certificate to the petitioner enabling him to obtain passport.



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ii) The petitioner, thereafter, shall file an affidavit under

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GSR.570(E) along with a No Objection Certificate obtained from the concerned Courts before the Passport Authority. On such presentation of the application, the Passport Authority shall consider the same and issue passport for a temporary period depending upon the requirement.

There shall be no order as to costs.

Index : Yes / No

**06.10.2023**

NCC : Yes / No

Internet : Yes

gk

Note:

Mark a copy of this order to  
The Superintendent of Police,  
Pudukottai District.

To

1.The Regional Passport Officer,  
Regional Passport Office,  
Tiruchirappalli New Municipal Complex,  
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**B.PUGALENDHI, J.**

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