



W.P.(MD)No.19418 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.19418 of 2023

Prakash Velumayil

... Petitioner

versus

1. The Regional Passport Officer,
Office of the Regional Passport Officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai – 625 002.

2. The Inspector of Police,
Kadupatti Police Station,
Madurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the first respondent to re-issue the passport of the petitioner in pursuant to his application pending in file MD1074034478122, dated 15.03.2022 within the period stipulated by this Court.

For Petitioner : Mr.N.Sathish Babu



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For R1 : Mr.A.P.Rajasimhan
Central Government Standing Counsel
For R2 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)

ORDER

The petitioner was issued with a passport No.K4031733 in the year 2019. Since the validity of passport was about to over, he applied for re-issuance of his passport before the first respondent vide Application No.MD1074034478122, dated 15.03.2022. The first respondent has not considered the same on the ground that the petitioner is involved in a criminal case in Crime No.102 of 2009 for the offence punishable under Sections 147, 148, 340, 323, 324, 427 and 307 IPC r/w. Section 4 of Women Harassment Act.

2. The learned Government Advocate (Crl. Side) appearing for the second respondent submits that the petitioner is involved in a case in Crime No.102 of 2009 on the file of the Inspector of Police, Kadupatti Police Station, Madurai District, for the offence punishable under Sections 147, 148, 340, 323, 324, 427 and 307 IPC r/w. Section



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4 of Women Harassment Act. In the said case, a final report has already been filed in the year 2013 itself and the same is pending before the Judicial Magistrate, Vadipatti, in PRC No.13 of 2013.

3. 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:-

“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.”

4. The above provision enables the Passport Authority to refuse



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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.

5. 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 by obtaining No Objection Certificate from the concerned Court and also by filing an undertaking as prescribed in the notification.

6. 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.



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7. 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 Court where the case is pending. The Court, on satisfaction and after ensuring his availability for the trial, shall issue a No Objection Certificate to the petitioner enabling him to get his passport renewed.

ii) The petitioner, thereafter, shall file an affidavit under GSR. 570(E) along with a No Objection Certificate obtained from the concerned Court before the Passport Authority. On such presentation of the application, the Passport Authority shall consider the same and renew the passport for a temporary period depending upon the requirement. No cost.

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



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B.PUGALENDHI, J.

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