



W.P.(MD)No.20589 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

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Murugesan

... Petitioner

Vs

- 1.Union of India,
Represented by the Principal Secretary,
Ministry of External Affairs,
Government of India,
Tilak Marg, CPV Division,
New Delhi-110 001.
- 2.The Regional Passport Officer,
Passport Seva Kendra,
New No.201/7d, Old No.201/7,
Next to Kumaran Theater,
Medical College Road, Sundram Nagar,
Thanjavur - 613 007.
- 3.The Superintendent of Police
Office of the Superintendent of Police,
Pudukkottai District.
- 4.The Inspector of Police
Malaiyur Police Station,
Pudukkottai District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent no.2 to issue passport to the petitioner by processing the Application No.ARN:



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21-1001253039 dated 18.02.2021 or by processing fresh application in accordance with law within the time stipulated by this Court

For Petitioner : Mr.S.Rameshkumar

For R-1 & R-2 : Mr.J.Alaguramjothi,
Senior Panel Counsel

For R-3 & R-4 : Mr.R.Sivakumar,
Government Advocate
(Criminal Side)

ORDER

This Writ Petition has been filed for the issue of writ of mandamus directing the second respondent to act upon the application submitted by the petitioner dated 18.02.2021 and to issue passport to the petitioner.

2. The petitioner applied for a passport before the second respondent. The second respondent did not process the application submitted by the petitioner on the ground that the fourth respondent had registered an F.I.R. in Crime No.09 of 2017 and in this F.I.R., the petitioner was arrayed as Accused No.4. In view of the same, the petitioner has filed this Writ Petition seeking for appropriate directions.



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3. The first and second respondents have filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

“1. It is submitted that, verification of this office records it revealed that the Petitioner has applied for issue of fresh passport vide file ref. No. TR1060568223117 with requisite fee and documents and the application was granted on pre police verification basis as per Ministry's guidelines. In this regard, an adverse police verification report was received from the Superintendent of Police, Pudukkottai stating that the applicant has been involved in Malaiyur PS vide Cr. No. 9/2017 u/s 147, 148, 294 b, 323 IPC and 4 of TNWH Act and 3 of TNPPDL Act.

2. It is submitted that in this regard, the objection letter was served to the petitioner on 04/07/2018 and advised to furnish explanation regarding suppression of criminal case pending against the petitioner in the passport application vide nc. TR1060568223117. He was also advised to furnish the Judgement order issued from the Hon'ble Court. He didn't submit the required documents even after lapse of more than one year.



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Therefore, this office initiated file close letter to the applicant on 11/12/2018. Since no reply was forthcoming from the applicant, the said application was closed on 25/02/2019 and he was advised to apply afresh with requisite fee and documents.

3. It is submitted that the petitioner has applied once again vide File Ref. No. TR1063283039921 without disclosing his previous application number and the criminal case pending against him or court acquittal order. Therefore, explanation was called from the applicant. In view of this, the petitioner attended enquiry at this office on 01/03/2021 and declared that there is no case pending in Police Station record. Thereafter, the petitioner made a request to this office by post on 01/10/2021 with copy endorsed to several offices stated that the Malaiyur PS Vide Crime No. 9 of 2017 is at FIR stage and it is not a bar or impediment for issuance of passport.

4. It is submitted that, in view of the above, this office has requested the Superintendent of Police, Pudukkottai on 05.10.2021 to inform if the case registered against Shri. R.Murugesan S/o.



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Ravichandran Cr.No. 09/2017 u/s 147, 148, 294 b, 323 IPC and 4 of TNWH Act and 3 of TNPPDL Act has been charge sheeted and if the same is pending trial before any criminal court.

5. It is submitted that, now this office has received a reply from the Superintendent of Police, Pudukkottai on 28.10.2021 stating that the said case is charge sheeted and is pending for admission (NTF) before the Hon'ble Court. It has been further informed that if passport is granted to the applicant, he will escape from India and it will affect the court proceedings. Moreover, the Investigation officer has strongly objected to grant passport facilities to the petitioner. Copy of the letter received from the Investigation Officer is attached herewith for reference.”

4. Heard the learned counsel on either side.

5. This Court enquired the learned Government Advocate (Criminal Side) appearing on behalf of the third and fourth respondents as to whether the final report has been filed before the concerned jurisdictional Court. The learned Government Advocate (Criminal Side) submitted that the investigation has been completed and till date, no final



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report has been filed before the concerned Court.

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6. The learned Senior Panel Counsel appearing on behalf of first and second respondents submitted that the third respondent had given serious objections for issuance of passport to the petitioner through a communication dated 28.10.2021 and therefore, the second respondent did not process the application submitted by the petitioner.

7. The only issue that is involved in this Writ Petition is as to whether the petitioner can be denied the passport based on the First Information Report that was registered by the fourth respondent and which is yet to culminate into criminal proceedings before the competent Court.

8. The issue that is involved in this Writ Petition is no longer *res integra* and it has been repeatedly held by this Court that the criminal proceedings will commence only after cognizance of the final report is taken by the jurisdictional Court. If the case is at the stage of FIR, that cannot be a ground to deny the passport being issued in favour of the petitioner. Useful reference can be made to the Judgment of the Division Bench in the case of *Arumugam Vs. The Regional Passport Officer*,



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Madurai in **W.A.(MD).No.301 of 2018** dated 27.03.2018.
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9. In view of the above, this Writ petition is disposed of with a direction to the second respondent to process the application of the petitioner and to grant passport to the petitioner, if the petitioner has satisfied all the other requirements. This process shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

10. This Writ Petition is disposed of with the above directions.

No costs.

16.11.2023

NCC:yes/no

Index:yes/no

Internet:yes/no

tsg

To

1.The Superintendent of Police
Office of the Superintendent of Police,
Pudukkottai District.

2.The Inspector of Police
Malaiyur Police Station,
Pudukkottai District.



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N.ANAND VENKATESH, J.

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