



W.P(MD)No.22926 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22926 of 2023 and
WMP(MD) No.19142 of 2023

Prabakaran

... Petitioner

Vs

1.The Passport Issuing Authority,
Race Course Road,
Madurai.

2.The Inspector of Police,
SV Mangalam Police Station,
Sivagangai District.
Crime No.26/2019.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned Communication issued by the first respondent vide letter Reference No. SCN/315571381/23 dated 21.08.2023 and quash the same and consequently forbear the respondent from taking coercive action in respect of passport No. V1626882 against the petitioner in any manner.



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W.P(MD)No.22926 of 2023

For Petitioner : Mr.RM.Arun Swaminathan
For R1 : Mr.S.Paramasivam
Standing Counsel
For R2 : Mr.P.Kottaichamy
Government Advocate

ORDER

The petitioner claims that he was already issued with a passport by the first respondent and on its expiry, it was re-issued on 29.10.2021. The petitioner is facing a criminal case in Crime No. 26 of 2019 for the offences punishable under Sections 279, 337 and 304(A) of IPC and the same was charge sheeted in CC No.373 of 2019, which is pending on the file of the Judicial Magistrate Court, Singampunari. Based on the above criminal case, the first respondent has issued the show cause notice under Section 10(3)(e) of the Passport Act,1967, calling upon the petitioner to offer his explanation. Challenging the same, the petitioner is before this Court.

2.The learned counsel appearing for the petitioner submits that this petitioner was already issued with a passport and



W.P(MD)No.22926 of 2023

WEB COPY

the first respondent has also re-issued the passport to the petitioner.

At present the petitioner is not intending to travel abroad. In the event of travel to abroad, the issue will arise. The petitioner is also regularly attending the trial Court. The petitioner has approached this Court in CrI.OP(MD) No.14060 of 2023 to quash the criminal proceedings, which is pending as against him. This Court, by order dated 09.08.2023 has disposed of the Criminal Original Petition in the following terms:-

“The trial Court is further directed to see that the entire trial is completed as expeditiously as possible, not later than six months from the date of receipt of a copy of this order. Considering the submissions of the learned counsel, the presence of the petitioner is dispenses with, however, the learned trial judge is at liberty to direct the petitioner to be present as and when his presence is required for smooth progression of the trial”

3.Mr.P.Kottaichamy, learned Government Advocate, who takes notice for the second respondent submits that the case in CC No.373 of 2019 is pending before the Judicial Magistrate Court,



W.P(MD)No.22926 of 2023

WEB COPY

Singampunari. The prosecution has taken necessary steps to examine L.W.1 through video conference as per the order passed by this Court in CrI.OP(MD) No.14060 of 2023.

4.This Court considered the rival submissions made.

5.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.”



W.P(MD)No.22926 of 2023

WEB COPY

6.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.

7.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.

8.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



W.P(MD)No.22926 of 2023

renewal of passport by referring the pendency of any criminal case before the Court.

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9. 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



W.P(MD)No.22926 of 2023

WEB COPY

shall consider the same and renew the passport for a temporary period depending upon the requirement.

No costs. Consequently, connected Miscellaneous Petition is closed.

21.09.2023

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

To

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WEB COPY



W.P(MD)No.22926 of 2023

B.PUGALENDHI, J.

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