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W.P.(MD)NO.25187 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.25187 of 2022 and
W.M.P.(MD)Nos.19285 & 19288 of 2022

Sujatha

... Petitioner

Vs.

1. The Regional Passport Officer,
Regional Passport Office,
New Municipal Complex,
Thillai Nagar, 7th Cross,
Tiruchirappalli – 620 018.

2. Ravi

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned communication dated 19.09.2022 issued by the 1st respondent to the son of the petitioner through Email vide proceedings Letter Reference No.IMP/313350283/2022 on the file of the 1st respondent and to quash the same as illegal.

For Petitioner : Mr.N.Anandakumar

For R-1 : Mr.V.Malaiyendran,
Central Government
Standing Counsel.

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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the first respondent.

2. Though Ravi has been shown as the second respondent, notice was not ordered to him.

3. The petitioner is the mother of one Sureya. By the impugned order, Sureya's passport has been impounded. Challenging the impounding order, the present writ petition came to be filed.

4. The basic facts are not in dispute. The petition mentioned passport in the name of Sureya was obtained on the strength of a fake birth certificate. In fact, this position is conceded by the petitioner herself. The petitioner is the wife of one Subramanian. But the said Subramanian was already wedded to one Jeyalakshmi. Subramaniam passed away in the year 2016. There arose dispute among the two wives. A civil



suit came to be filed. In the said civil suit, the petitioner herein filed various documents including the birth certificate of her son Sureya. The second respondent herein is the son-in-law of Jeyalakshmi. The wife of the second respondent was one of the defendants in the said civil suit. A complaint was lodged that the birth certificate filed by the petitioner was bogus. An enquiry was conducted and that the allegation turned out to be true. Thereupon the learned trial Judge directed initiation of the prosecution under Section 340 of Cr.P.C. C.C.No.955 of 2020 on the file of the Judicial Magistrate No.II, Tiruchirappalli was taken up. The petitioner figured as an accused. The case ended in acquittal vide judgment dated 14.09.2022. A copy of the acquittal judgment is enclosed in the typed set of papers. The learned trial Magistrate had rendered a finding that while the birth certificate of Suriya is bogus, there was nothing on record to show that the petitioner herein was responsible for its procurement. In fact the petitioner would assert that she was unaware of the true character of the said birth certificate.



5. It is also not in dispute that the passport in favour of Sureya was issued originally in the year 2005. The competent criminal Court has held that the petitioner was not responsible for the procurement of the fake birth certificate. Sureya was admittedly a minor when the passport was originally issued. Neither the petitioner nor Sureya can be fastened with any criminal liability or responsibility.

6. When the passport in question was obtained on the strength of a fake document, it has to be necessarily recalled. Sureya is now major and he has to necessarily submit a fresh application for issuance of fresh passport.

7. Now the only question is whether this Court should interfere with the order impugned in this writ petition. The learned counsel appearing for the writ petitioner states that Sureya has since completed his studies at Dubai and if the impugned order is not kept in abeyance, his entry into India may be jeopardized.



8. I record the undertaking given by the learned counsel appearing for the writ petitioner on instructions that Sureya will appear before the first respondent within thirty days from the date of receipt of a copy of this order. Sureya, son of the petitioner shall appear before the first respondent on 03.03.2023 at 3.00 p.m.

9. Till then, (ie.) 03.03.2023, the impugned order shall be kept in abeyance and shall not operate. If Sureya failed to appear before the first respondent on the date and time mentioned above, this order now passed will spring back to life. The original passport will have to be surrendered before the first respondent on 03.03.2023.

10. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

01.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

The Regional Passport Officer,
Regional Passport Office, New Municipal Complex,
Thillai Nagar, 7th Cross, Tiruchirappalli – 620 018.



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G.R.SWAMINATHAN,J.

PMU

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