

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**THURSDAY, THE NINETEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 29429 OF 2023

Between:

Kolluri Sai Kiran, S/o: Kolluri Kishan, Aged about. 35 years, Occ. Private Employee, R/o H. No. 8-1-68/A/15, Vinayaknagar, Shaikpet, Hyderabad.

...PETITIONER

AND

1. The Central Passport Organization, Rep. by Chief Passport Officer, Ministry of External Affairs, Government of India, Office at Room No. 27, Patiala House, Tilak. Marg New Delhi - 110001.
2. The Regional Passport Office, 73, Red Cross Road, Shivajinagar, Secunderabad, Telangana State, 500003.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ or order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondent No. 2 in not considering the Application No. 23-1012367549, Dated:8/10/2023, for renewal of Passport bearing No. J7163497 of Petitioner as illegal, arbitrary unjust and against the Principle of Nature of Justice and violation of Article 14, 21 and 300-A and consequently direct the Respondent No. 2, to renew the Passport bearing No. J7163497 of Petitioner and issue the same.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to renew the Passport bearing No. J7163497 of Petitioner and issue the same.

Counsel for the Petitioner: SRI MIRZA MAHMOOD ALIBAIG

**Counsel for the Respondents: GADI PRAVEEN KUMAR (Dy. SOLICITOR GEN.
OF INDIA)**

The Court made the following: ORDER

HON'BLE SMT JUSTICE SUREPALLI NANDA

WRIT PETITION No.29429 of 2023

ORDER:

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondents.

PERUSED THE RECORD.

2. The prayer as sought for by the petitioner in the present writ petition reads as under:

"To issue an appropriate Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent No.2 in not considering the Application No.23-1012367549 Dated 8/10/2023 for renewal of Passport bearing No.J7163497 of Petitioner as illegal, arbitrary, unjust and against the Principle of Nature of Justice and violation of Article 14, 21 and 300-A and consequently direct the Respondent No.2 to renew the Passport bearing No.J7163497 of Petitioner and issue the same."

3. A perusal of the record would reveal that the petitioner herein is an accused in Crime No.77 of 2021, for the offences punishable under Sections 498-A and 506 of IPC and Sections 3 and 4 of Dowry Prohibition Act and after completion of investigation, the Investigating Officer had filed charge sheet.

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The same was taken on file vide C.C.No.1816 of 2021 and it is pending on the file of III Additional Junior Civil Judge, Cum, III Additional Metropolitan Magistrate, Ranga Reddy District at L.B. Nagar. The petitioner herein was also accused in D.V.C. Complaint vide case No.148 of 2019 and it is pending on the file of VI Additional Metropolitan Magistrate, Cum, J.F.C.M, Special Mobile (VI Additional Junior Civil Judge, Cyberabad, L.B.Nagar).

4. The specific case of the petitioner herein is that petitioner is holding passport bearing No.J7163497, which was issued by the respondent No.2 with validity from 02.08.2011 to 01.08.2021 and the petitioner passport was expired on 01.08.2021. Therefore, the petitioner herein has submitted an application for renewal of passport vide application reference No.23-1012367549 dated 08.10.2023. However, the respondents herein are not renewing the passport on the ground of pendency of the aforesaid criminal case against the petitioner.

5. Learned counsel appearing for the petitioner would submit that the petitioner herein was falsely implicated in the

aforesaid crime. Further, the petitioner is also ready to co-operate with the trial. Therefore, the petitioner sought to issue necessary directions to the respondents for consideration of the petitioner's application to renew passport.

6. Learned counsel for the respondents would submit that because of pendency of aforesaid case the petitioner's request cannot be considered and therefore, the writ petition needs to be dismissed.

7. Respondent No.2 cannot deny renewal of Passport on the ground that aforesaid Criminal Case is pending against the petitioner. It is also relevant to note that the Apex Court in **Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation**¹ had an occasion to examine the provisions of the Passports Act, pendency of criminal cases and held that refusal of a passport can be only in case where an applicant is convicted during the period of five (05) years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years. Section 6.2 (f) relates to a situation where

¹. 2020 Cr.L.J. (SC) 572

the applicant is facing trial in a criminal Court. The petitioner therein was convicted in a case for the offences punishable under Sections - 420, 468, 471 and 477-A read with 120B of IPC and also Section - 13 (2) read with Section 13 (1) of the Prevention of Corruption Act, 1988. Against which, an appeal was filed and the same was dismissed. The sentence was reduced to a period of one (01) year. The petitioner therein had approached the Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Apex Court held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Apex Court directed the Passport Authority to renew/issue the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal case.

8. As discussed above, the aforesaid criminal cases are pending against the petitioner herein. The petitioner had submitted an application reference No.23-1012367549 dated 08.10.2023 for renewal of passport. Respondent No.2 is not considering the application for renewal of passport on the

ground of pendency of the aforesaid criminal case vide CC No.1816 of 2021 and D.V.C. Complaint vide case No.148 of 2019. On the ground of pendency of the proceedings in criminal cases, respondent No.2 cannot deny for renewal of passport to the petitioner herein. There is no provision in the Passports Act or Rules/Regulations that passport cannot be granted on the ground of pendency of criminal cases. Further, the petitioner herein is standing on better footing than the petitioner in **Vangala Kasturi Rangacharyulu**. In view of the same, respondent No.2 cannot deny or refuse to renew passport to the petitioner.

9. In view of the aforesaid discussion, this writ petition is disposed of at the admission stage directing respondent No.2 herein to consider the application reference No.23-1012367549 dated 08.10.2023 submitted by the petitioner seeking to renew passport on the following conditions:-

- i) The petitioner herein shall submit an undertaking along with an affidavit in C.C.No.1816 of 2021, pending on the III Additional Junior Civil Judge, Cum, III**

Additional Metropolitan Magistrate, Ranga Reddy District at L.B. Nagar, and also in D.V.C. Complaint vide case No.148 of 2019 and it is pending on the file of VI Additional Metropolitan Magistrate, Cum, J.F.C.M, Special Mobile (VI Additional Junior Civil Judge, Cyberabad, L.B.Nagar) stating that the petitioner shall not leave India during pendency of the said Cases. without permission of the Court and that he shall co-operate with trial Court in concluding the proceedings in the said Cases.

- ii) On filing such an undertaking as well as affidavit, the trial Court shall issue a certified copy of the same within two (02) weeks there from;**
- iii) The petitioner herein shall submit an application afresh along with certified copy of this order as well as the aforesaid undertaking before the Passport Officer/ Authority concerned for renewal of passport;**
- iv) On filing such an application, the Passport Officer/Authority shall consider the same afresh in the light of the observations made by this Court herein as well as the contents of the undertaking given by the petitioner for renewal of passport, in accordance with law,**

within three (03) weeks from the date of said application;

- v) Respondent No.2 shall consider Rule 12 of the Passport Rules, 1967 while considering the aforesaid application submitted by the petitioner.
- vi) On renewal of the Passport, the petitioner herein shall deposit the same before the trial Court in C.C.No.1816 of 2021 and in D.V.C Complaint vide case No.148 of 2019; and
- vii) However, liberty is granted to the petitioner herein to file an application before the learned Magistrate seeking permission to travel abroad, and it is for the learned Magistrate to consider the same in accordance with law.

As a sequel, the miscellaneous petitions, if any, pending in the Writ Petition shall also stand closed. However, in the circumstances of the case, there shall be no order as to costs.

//TRUE COPY//

SD/- T. JAYASREE
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Central Passport Organization, Rep. by Chief Passport Officer, Ministry of External Affairs, Government of India, Office at Room No. 27, Patiala House, Tilak. Marg New Delhi - 110001.
2. III Addl. JCJ-cum-III Addl Metropolitan Magistrate, at L.B.Nagar, Telangana.
3. VI Addl. Metropolitan Magistrate-cum-JFCM, Spl.Mobile(VI Addl. JCJ, Cyberabad, at L.B.Nagar)
4. The Regional Passport Office, 73, Red Cross Road, Shivajinagar, Secunderabad, Telangana State, 500003.
5. One CC to Sri Mirza Mahmood Alibaig, Advocate [OPUC]
6. One CC to Sri Gadi Praveen Kumar (Dy. Solicitor Gen. of India) [OPUC]
7. Two CD Copies

T J
GJP *YK*

HIGH COURT

DATED:19/10/2023



ORDER

WP.No.29429 of 2023

**DISPOSING OF THE WRIT PETITION AT THE
ADMISSION STAGE**

WITHOUT COSTS.

9 copies
per
2/11/23