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W.P.No.10914 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No.10914 of 2024

Sivaramakrishnan Ravichandiran

... Petitioner

Vs.

1. The Regional Passport Office,
Chennai Royala Towers No. 2 and 3,
IV Floor, Old No. 785, New No. 158,
Anna Salai, Chennai – 600 002.

2. Inspector of Police,
Vishnukanchi Police Station,
Kancheepuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Mandamus, to direct the first respondent to renew petitioner's passport pursuant to his written clarification dated 02.04.2024.

For Petitioner : Mr.K.Thenrajan

For R1 : Mr.M.Sathyan
Central Government Standing Counsel

For R2 : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

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The writ of mandamus has been instituted to direct the 1st respondent to renew the Passport of the petitioner based on his written clarification dated 02.04.2024.

2. The petitioner has suppressed the fact regarding the pendency of two criminal cases in his application submitted before the Regional Passport Officer for renewal of Passport. Subsequently, the petitioner has given an explanation stating that the facts are omitted inadvertently. Such explanations cannot be accepted by this Court. The fact remains that two criminal cases are pending against the writ petitioner.

3. Several writ petitions are filed before the High Court, without impleading the jurisdictional Police Authorities. In some cases, the applications are submitted by suppressing the fact regarding the registration of criminal cases before the Regional Passport Officer. However, in the present writ petition, the jurisdictional Police has been impleaded as party respondent by the petitioner.

4. May that as it be, this Court is of the considered opinion that



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High Court in exercise of powers of judicial review under Article 226 of

Constitution of India, cannot conduct a roving enquiry with reference to the character and antecedents and pendency of criminal cases etc., against the persons, who all are submitting applications under the Passport Act. In such circumstances, the applicant, who presented the application before the Regional Passport Officer, in the event of facing criminal case has to approach the competent jurisdictional Criminal Court for the purpose of securing the relief. The competent Criminal Court can conduct an enquiry, ascertain the factual position, impose conditions and thereafter issue, re-issue renew the Passport or pass suitable orders. Contrarily, High Court cannot decide such disputed facts. Therefore, filing of writ petitions seeking the relief to issue, re-issue or renew the Passport cannot be entertained in a routine manner by the High court, since disputed facts are involved.

5. Section 6(2) of the Passport Act, 1967 enumerates that “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:-

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(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India”

6. Therefore, pendency of criminal case is a bar for issuance of Passport. When there is an express bar under the provisions of the Passport Act, the facts raised between the parties are to be adjudicated in the manner known to law. In the absence of any adjudication, High Court in exercise of powers of judicial review may not issue a direction to the Passport Officer to issue, renew or re-issue the passport. In the event of granting the relief, there is a possibility of mis-carriage of justice, since the persons, who have involved in the criminal case may file the writ petition, secure the relief and travel to abroad. In such circumstances, it would be difficult for the investigating agencies to nab the person and prosecute them under the Criminal Law in India.

7. All these larger repercussions are to be considered by the Courts, while granting the relief relating to issuance of Passport. Issuance of Passport involves several implications. Therefore, such relieves are to be sought for only before the jurisdictional Criminal court and the Court concerned has to



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adjudicate the facts with reference to the documents and evidences available on record and grant the relief, if necessary, by imposing conditions so as to ensure that the accused in the criminal cases are prosecuted under the procedures contemplated.

8. Wherever the writ petitions are filed without impleading the State Police Authorities, the Court may not be in a position to ascertain the clear facts about the character and antecedents and involvement of the persons in criminal cases and those writ petitions are not entertainable.

9. In the present case, the petitioner has suppressed the fact regarding the pendency of two criminal cases before the Passport Officer. The petitioner has given an explanation stating that the facts are omitted inadvertently. This being the factum, the petitioner is at liberty to approach the jurisdictional Criminal Court for the purpose of considering his case.

10. Accordingly, this Writ Petition stands **dismissed** at the admission



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stage itself. No costs.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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2. Inspector of Police,
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S.M.SUBRAMANIAM,J.



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