



W.P.No.28746 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.28746 of 2022

Nethaji

... Petitioner

Vs.

1. The Regional Passport Officer,
Regional Passport Office,
Tiruchirapalli Municipal Water Tank Building,
W.B. Road, Thiruchirapalli,
TamilNadu- 600 008.

2. The State Rep. by the Inspector of Police,
All Womens Police Station,
Nagapattinam-611 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus directing the respondent to issue the passport to the petitioner after considering his online application vide File No.TR1073825597921 dated 22.12.2021, within a time bound framed by this Hon'ble Court.



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For Petitioner	: Mr.A.Raja Mohamed
For Respondent 1	: Mr.A.Veeramani Central Government Standing Counsel
For Respondent 2	: Mr.E.Vijay Anand Additional Government Pleader

ORDER

This writ petition has been filed for direction directing the first respondent to issue passport by considering the application dated 22.12.2021.

2. The petitioner obtained passport No.H9048064 on 12.08.2010, which got expired on 11.08.2020. Therefore, the petitioner applied for renewal of his passport through online on 22.12.2021 vide File No.TR1073825597921. On receipt of the said application, the first respondent issued show cause notice to the petitioner on 04.02.2022 for his appearance with all his original documents. In pursuant to his application he received a Objection Notice from the first respondent stated that there is a criminal case pending against the petitioner on the file of the 2nd respondent in Cr.No.19 of 2021 registered for the offences under sections 498(A), 294(b), 352 of IPC, 1860 and under section 4 of TamilNadu Prohibition of Women Harassment Act, 2002. Therefore, the application submitted by the petitioner for renewal passport is still pending



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before the first respondent.

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3. On perusal of the records revealed that the petitioner is arrayed as 7th accused in Cr.No.19 of 2021 he is one of the relative of the parties. The entire dispute had arisen due to family dispute, in fact the petitioner was granted anticipatory bail by this Court in CrI.O.P.No.17757 of 2021 dated 22.09.2021. So far no charge sheet has been filed and the said case is pending in the FIR stage. On receipt of the show cause notice, the petitioner also submitted detailed explanation. Even after receipt of the explanation, the first respondent keep the petition for renewal of passport pending. In terms of Section 6(2) (e), (f), (g) of The Passport Act, 1967, the Passport Authority shall refuse to issue passport, if the applicant have been convicted by the Court of India or the proceeding in relation of the offence alleged pending before the Criminal Court in India or in warrant or summon for the appearance or warrant of arrest has been issued by any Court. The above said section is extracted hereunder:

"6(2)(e) - that the applicant has, at any time during the period of five years immediately proceeding the date of his application, been convicted by a Court in India for any offence involving moral



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turpitude and sentenced in respect thereof to imprisonment for not less than 2 years;

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

(g) - that a warrant or summons for the appearance or warrant for the arrest, of the applicant has been issued by a Court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such Court;"

4. In terms of above provisions the petitioner neither been convicted nor any pending proceeding before any Court nor received warrant or summons by any Court till date. Therefore, pendency of FIR is not a bar to issue a passport by the first respondent. This Hon'ble Court already held that unless the Judicial Magistrate takes cognizance of the offence on filing of charge sheet, it cannot be said that the proceedings are pending before the Criminal Court. Therefore, the first respondent cannot mechanically refuse to issue a passport, merely on the ground of pending FIR as against the petitioner. Further, the criminal case is pending against the petitioner only in the FIR Stage. Therefore, mere pendency of the criminal case at the FIR Stage is not a bar for issuance of passport. In fact, the petitioner also issued passport and his application for renewal of passport is pending on the file of the first



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respondent. That apart, the petitioner is arrayed as 7th accused in Cr.No.19 of 2021 he is one of the relative of the parties. Therefore, the first respondent cannot keep the application of the petitioner for renewal of his passport.

5. In view of the above, the first respondent is directed to consider the application made by the petitioner for renewal of his passport vide online application File No.TR1073825597921 dated 22.12.2021 and to issue passport to the petitioner within a period of four weeks from the date of receipt of copy of this order.

6. With the above direction, this writ petition is allowed. No costs.

04.06.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
gvn

G.K.ILANTHIRAIYAN, J.
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To

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1. The Regional Passport Officer,
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2. The State Rep. by the Inspector of Police,
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