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W.P.No.26866 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

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THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.26866 of 2024

and

WMP.Nos.29380 & 29385 of 2024

Halinath Raja Haja Moideen

...Petitioner

Vs.

1. The Regional Passport Officer ,
Regional Passport Office,
Rayala Towers 2 & 3, IV Floor,
New No.158, Anna Salai, Chennai-2.
2. The Inspector of Police,
Mangalampet Police Station,
Cuddalore.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating the Impugned communication in Letter reference No.SCN/319020135/24 dated 13.08.2024 of the 1st respondent and quash the same as illegal and consequently direct the 1st respondent to issue Passport Clearance Certificate (PCC) to the petitioner by considering the petitioner's PCC Application vide ARN No.24-1009247069 and file No.MAH086900837324 dated 21.07.2024 and petitioner's representation dated 23.08.2024 within time frame stipulated by this Hon'ble Court in the light of the judgment of this Hon'ble Court.



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For Petitioner : Mr.I.Abdul Basith

For Respondents : Mr.M.Sathyan ACGSC, for R1
: Mr.L.Baskaran, GA(Crl. Side), for R2

ORDER

This Writ petition has been filed seeking quashment of the Letter reference No.SCN/319020135/24 dated 13.08.2024 issued by the 1st respondent and to consequently direct the 1st respondent to issue Passport Clearance Certificate (PCC) to the petitioner by considering his Application vide ARN No.24-1009247069 and file No.MAH086900837324 dated 21.07.2024 and also his representation dated 23.08.2024.

2. Mr.M.Sathyan, learned Additional Central Government Standing Counsel takes notice on behalf of the 1st respondent, Mr.L.Baskaran, learned Government Advocate (Crl. Side) takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this petition is taken up for final disposal at the admission stage itself.



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3. The case of the petitioner is that, the petitioner obtained passport bearing No.V6773269 and the same is valid from 10.02.2022 to 09.02.2032. Subsequently, the petitioner applied for Passport Clearance Certificate (in short 'PCC') before the 1st respondent, vide application ARN No.24-1009247069 and file No.MAH086900837324 dated 21.07.2024. However, the 1st respondent, vide impugned communication dated 13.08.2024 sought clarification on adverse police verification report with regard to the criminal case pending against the petitioner in Cr.No.188 of 2020 on the file of the 2nd respondent. Upon receipt of the said communication, though the petitioner, vide explanation dated 23.08.2024 stated that the petitioner is not an accused in the said crime number, however, the same was not considered by the 1st respondent and till date, the petitioner was not issued with the Passport clearance certificate. Hence, the petitioner has come up with this writ petition challenging the impugned communication dated 13.08.2024 in Letter reference No.SCN/319020135/24 issued by the 1st respondent.

4. Learned counsel for the petitioner submitted that, though the 1st



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respondent, relying upon the adverse police verification report has failed to

issue PCC in favour of the petitioner, however, the petitioner is not even

arrayed as an accused in the said Crime No.188 of 2020 and no such case is pending against the petitioner. Even if it is presumed without admitting that there is a criminal case pending against the petitioner, mere pendency of FIR cannot be a ground for refusal of PCC or for impounding the passport under Section 12(1)(b) of the Passport Act, 1967. In order to substantiate his claim, the learned counsel for the petitioner relied upon the decision of this Court in the case of *Alagu Balkrishnan Vs. The Joint Secretary and ors* reported in *MANU/TN/3308/2015*. Accordingly, he prayed for appropriate orders.

5. Per contra, the learned counsel appearing for the respective respondents submitted that, admittedly, the petitioner is not arrayed as an accused in Cr.No.188 of 2020. However, there is a criminal case pending against the petitioner in Cr.No.118 of 2020 and inadvertently, it has been mentioned as Cr.No.188 of 2020 instead of Cr.No.118 of 2020 in the police verification report. It is further submitted by the learned counsel that, after



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investigation, the charge sheet has been filed before the learned Judicial Magistrate II, Viruthachalam and the only remedy available to the petitioner is to approach the trial court by way of filing appropriate application and not before this Court and accordingly, prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the materials available on record.

7. Though very many grounds have been raised by the learned counsel for the petitioner against the impugned communication, as rightly pointed out by the learned counsel appearing for the respective respondents, after conducting investigation, as the law enforcing agency has already filed the final report before the trial court, the proper remedy available to the petitioner is to approach the Judicial Magistrate II, Viruthachalam, where the criminal case is pending. Without resorting to such remedy, filing the present Writ petition challenging the letter communication dated 13.08.2024 issued by the 1st respondent is not sustainable. Hence, this Court is not inclined to interfere with the impugned letter. However, liberty is granted to the petitioner to file appropriate application seeking permission to travel



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abroad, before the trial court where the criminal case is pending and
workout his remedy in the manner known to law.

8. Accordingly, this Writ petition stands dismissed with the
aforestated liberty to the petitioner. No costs. Consequently, the connected
Miscellaneous petitions are closed.

18.09.2024

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

To

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