



WEB COPY

W.P.No.28286 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.28286 of 2023
and
W.M.P.No.27808 of 2023

Bharathidasan

.. Petitioner

VS

1.The Passport Officer,
Ministry of External Affairs,
Passport Office,
Tiruchirappalli.

2.The Superintendent of Police,
Ariyalur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the entire records relating to the summon issued by the 1st respondent in F.No.TR1073113969920/210094-CRM-TRY dated 16.07.2021 and quash the same.

For Petitioner : Mr.R.Gokulakrishnan

For Respondents : Ms.Reshma
for Dr.D.Simon, CGSC for R1

Mr.S.Vinoth Kumar,
Government Advocate (Crl.Side)
for R2

ORDER

The petitioner was a holder of passport that had been issued on 22.01.2021.

2. He is aggrieved by a notice issued to him on 16.07.2021 by the first respondent, the Passport Officer / R1. Therein, R1 refers to a case in STC No. 7 of 2021 pending trial before the Judicial Magistrates Court I,



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Jayamkondan. On account of the same, R1 proposes to impound the passport in terms of Section 10(3)(e) of the Passport Act, 1967 (in short, 'Act'). In conclusion, the petitioner has been directed to surrender the passport bearing no. U2739697 forthwith under threat of impounding of the same.

3. Counter filed by R1, does not make out any other case, save reliance on the provisions of Section 10(3)(e) and 10(3)(h) of the Act. These provisions refer to commission of offences by the holder of the passport, which are pending before a criminal court in India and relying on the same, the authority would reiterate the proposal contained in the impugned notice.

4. Heard, Mr.R.Gokulakrishnan, for the petitioner, Ms.Reshma, for Dr.D.Simon, learned CGSC for R1 and Mr.S.Vinoth Kumar, learned Government Advocate (Crl.Side) for R2.

5. The provisions of Section 10 provide for variation, impounding and revocation of passport and travel documents. The specific provision relied upon by the authorities in the impugned notice is Section 10(3)(e). Section 10(3)(e) states that the officer may invoke the power under Section 10, if proceedings in respect of the offences alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India.

6. While the petitioner does not dispute that there is a criminal case pending against him in terms of Section 138 of NI Act, the gravity of the offence is not such, so as to attract the application of Section 10 of



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the Act. One may profitably refer to a decision of this Court dated 26.11.2015 passed in W.P.No.28760 & 28761 of 2015, wherein in a similar circumstances, the prayer of the petitioner has been accepted.

7. Therein too, this Court has noted that trial contemplated under the NI Act is only a summary proceeding where the maximum punishment would not exceed one year and the offence was also compoundable.

8. For the aforesaid reasons, impugned notice dated 16.07.2021 is set aside and this writ petition is allowed. No costs. Connected miscellaneous petition is closed.

11.06.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

1.The Passport Officer,
Ministry of External Affairs,
Passport Office,
Tiruchirappalli.

2.The Superintendent of Police,
Ariyalur District.



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DR. ANITA SUMANTH,J.

ssm

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