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W.P.No.32224 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.32224 of 2024

Rajavel Rayapillai

...Petitioner

Vs.

1.The Regional Passport Officer
O/o.the Regional Passport
Chennai Royala Towers No.2 & 3
IV Floor, Old No.785, New No.158
Anna Salai, Chennai 600 002.

2.The Inspector of Police
Prohibition Enforcement Wing Police-Virudhachalam
Virudhachalam – Post & Taluk
Cuddalore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to process petitioner's passport renewal application in file No.MA1076675331524 dated 24.06.2024 and renew the petitioner's passport bearing No.M3491950.



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For Petitioner : Mr.D.Veerasekharan

For Respondents : Mr.P.K.Ganesh for R1
Standing Counsel
Mr.L.Baskaran for R2
Government Advocate

ORDER

The petitioner herein seeks a direction to the first respondent to process the petitioner's passport renewal application in file No.MA1076675331524 and renew the petitioner passport bearing No.M3491950.

2. It is the case of the petitioner that he is living in Dubai and doing steel work. He made an application for issue of passport before the first respondent in the year 2014. After scrutinizing the same, the first respondent issued passport on 14.11.2014. The petitioner came back to India on 19.05.2018 and he got married. Again he went to Dubai for the same work. Subsequently, the petitioner's passport expired on 13.11.2024. Therefore, he submitted an application for renewal of passport. The petitioner received a communication from the first respondent on 22.07.2024 seeking clarification with regard to the two criminal cases of prohibition offences pending against



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him. The petitioner submitted a detailed explanation before the first respondent on 15.08.2024 bringing to the notice of the first respondent that two FIRs were pending in the name of the petitioner in Crime Nos.40 & 155 of 2020 on the file of the Prohibition Enforcement Wing Police-Virudhachalam. It is also brought to the notice of the first respondent that no charge sheet has been filed till date by the Investigation Officer. Therefore, the petitioner sought for renewal of the passport.

3. The first respondent in spite of the explanation offered by the petitioner, failed to process the application and hence he has come before this Court with above prayer.

4. The learned counsel for the petitioner submitted that mere pendency of the FIRs is not a ground to refuse his application and hence, the renewal of the passport can be done in the absence of filing of the charge sheet.

5. The learned counsel for the petitioner by relying on the judgment of the High Court of *Jammu and Kashmir and Ladakh* in *Rajesh Gupta Vs. Union of India and another*, reported in *2022 SCC Online J & K*



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1066, submitted that the registration of an FIR or pendency of investigation by the Investigating Agency is not a ground to refuse, issue or renewal of passport requested by the applicant.

6. Mr.P.K.Ganesh, learned Standing Counsel takes notice for the first respondent and Mr.L.Baskaran, learned Government Advocate (Crl.Side) takes notice for the second respondent and he also filed a counter affidavit.

7. The learned Government Advocate appearing for the second respondent submitted that investigation is completed and charge sheets have been laid in both the crime numbers before the Jurisdictional Magistrate namely Judicial Magistrate No.I, Virudhachalam and the same has not been taken on file.

8. In view of the counter affidavit filed by the second respondent, it is clear that though charge sheet has been filed against the petitioner, the learned Magistrate has not taken cognizance of the same till date.

9. Section 6 (2) of the Passports Act reads thus:



“6. Refusal of passports, travel documents. etc.

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(2) 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:—

- (a) that the applicant is not a citizen of India;*
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;*
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;*
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;*
- (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;*
- (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending*



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before a criminal court in India;

- (g) *that a warrant or summons for the appearance, or a 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;*
- (h) *that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;*
- (i) *that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.”*

10. A perusal of Section 6 (2) (f) of the Passport Act would make it clear that unless a proceedings is pending before a criminal Court in India, request for issuance of passport renewal cannot be rejected. In the case on hand as mentioned earlier, cognizance has not been taken by the jurisdictional Magistrate based on the charge sheet filed by the second respondent. Hence it cannot be said a criminal proceedings is pending before a Court in India within the meaning of Section 6 (2) (f) of Passports Act.



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11. In view of discussions made earlier, as on today there is criminal proceedings pending against the petitioner as cognizance has not been taken by jurisdictional Magistrate based on the charge sheet filed by the second respondent. In such circumstances, there may not be impediment for the first respondent to process the application of the petitioner for renewal of the passport. Accordingly, the first respondent is directed to process the application submitted by the petitioner seeking renewal of the passport bearing No.M3491950 and pass final order, on it's own merits, within a period of four weeks from the date of receipt of copy of this order, after issuing notice to the petitioner and the second respondent.

12. With the above direction, this Writ Petition is disposed of. No costs.

04.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
dna



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To

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