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W.P.No.33032 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P. No. 33032 of 2024

R.Balaji Rajamani

... Petitioner

VS.

1. The Regional Passport Officer,
Regional Passport Office,
Chennai Rayala Towers No. 2 and 3,
IV floor, Old No.785, New No.158,
Anna Salai, Chennai - 600 002.

2. The Inspector of Police,
District Crime Branch,
Krishnagiri District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to issue the petitioner passport vide passport application file No.MA3063830587321 by considering the representation dated 03.01.2024.

For Petitioner	: Mr.M.Guruprasad
For R1	: Mr.K.Gangadaran Central Government Standing Counsel
For R2	: Mr.L.Baskaran Government Advocate (Crl.Side)



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ORDER

The petitioner herein seeks a direction to the respondent to issue passport vide passport application file No.MA306383058732, by considering his representation dated 03.01.2024.

2. It is the case of the petitioner that he applied for issuance of passport before the first respondent on 23.12.2021 and the same is pending. While so, he received a notice from the first respondent on 04.01.2022 seeking clarification regarding an adverse police report received from the second respondent. Since the petitioner's application for issuance of passport has not been considered till date, the petitioner is before this Court.

3. Mr.K.Gangadaran, learned Central Government Standing Counsel, takes notice for the first respondent and Mr.L.Baskaran, learned Government Advocate (Crl.Side) takes notice for the second respondent.

4. The learned Central Government Standing Counsel appearing for the first respondent submits that a criminal case is pending against the



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petitioner in C.C.No.77 of 2020 on the file of the Judicial Magistrate II Court, Krishnagiri and hence, the application of the petitioner seeking issuance of passport has not been considered as it is covered by Section 6 (2) (f) of passport Act.

5. The learned Government Advocate appearing for the second respondent filed a status report and submits that criminal case is pending against the petitioner in C.C.No.77 of 2020 on the file of the Judicial Magistrate No.II, Krishnagiri for the offences under Section 34, 120 (B) and 420 of IPC. It is further stated that the matter is posted for framing of charges on 06.12.2024.

6. In view of the status report filed by the second respondent it is clear that as on today, a criminal proceeding is pending before a criminal Court in India against the petitioner within the meaning of Section 6(2) (f) of passport Act.

7. The learned counsel appearing for the petitioner by relying on the judgement passed by this Court in WA.No.902 of 2023 submits that merely



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because a criminal case is pending, it would not be an impediment for processing the application for issuance of passport.

8. A perusal of the order passed by this Court in WA.No.902 of 2023 would indicate that this Court relied on the earlier order passed by the Apex Court in *Vangala Kasturi Rangacharyulu Vs, Cenral Bureau of Investigation* in Criminal Appeal No.1342 of 2017 reported in **2021 SCC online SC 3549**. A close reading of the order passed by the Apex Court would indicate that on that facts of said case, no criminal trial was pending before the Court in India and the trial was already over and applicant was convicted and sentenced to undergo imprisonment for one year. As per section 6.2(e) of passport Act if the person is convicted for an offence and sentenced to undergo imprisonment for a period of not less than two years, it is a ground for refusing passport. However, in the case before the apex Court the trial was over and the applicant was convicted and sentenced to undergo imprisonment for lesser period of one year. Therefore, Section 6 (2) (e) of passport Act was not a bar and as a result Apex Court had taken a view that passport could be issued for the said person. In paragraph 8 of the said order while considering the bar under Section 6.2 (f) passport Act,



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the apex Court held as follows:-

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"8. Section 6.2(f) relates to a situation where the applicant is facing trial in a criminal Court."

(Emphasis Supplied by this Court.)

9. In view of the same, it is clear that if criminal trial is pending against the applicant in India and it will be covered by Section 6 (2) (f) of passport Act and the respondents are entitled to hold the issue of passport, till the applicant gets permission to travel abroad. In W.A.No.902/2023, this Court solely relied on decision of apex Court in ***Vangala Kasturi Rangacharyulu case*** which was relating to Section 6 (2) (e) of Passport Act. The bar under Section 6 (2) (f) was not attracted on the facts of the said case and in fact apex Court emphasised Section 6 (2) (f) of Passport Act relates a situation where applicant is facing trial in a criminal Court. In the case on hand petitioner is facing a criminal trial and hence bar under Section 6(2) (f) is attracted even as per decision in ***Vangala Kasturi Rangacharyulu case***.

10. In view of the law laid down by the Apex Court in ***Vangala Kasturi Rangacharyulu case***, the case of the petitioner is covered by



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Section 6 (2) (f) of passport act as Criminal trial is pending against him.

Therefore, the petitioner is directed to file an application before the criminal court in which the criminal case is pending against him and seek permission to visit foreign country within a period of two weeks from the date of receipt of copy of this order. If any such application is filed by the petitioner, the criminal Court shall consider the same and pass final orders on its own merits, within a period of four weeks. In case, the petitioner is permitted to visit foreign country by the court concerned the certified copy of the said order can be produced by the petitioner before the first respondent. On receipt of certified copy of the order, the first respondent shall process the application for issue of passport and pass final orders, on its own merits, within a period of four weeks from the date of submission of certified copy of the order.

11. With the above direction, this Writ Petition is disposed of.

No costs.

02.12.2024

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To
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