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W.P.No.32647 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.32647 of 2024

Kuppusamy Krishnasamy

...Petitioner

Vs.

1.The Union of India-represented by
The Consulate General of India
A1 Hamriya, Diplomatic Enclave
P.O.Box, No.737, Dubai
United Arab Emirates.

2.The Regional Passport Officer
2nd Floor, Corporation Commercial Complex
7th Cross St. W, West Thillai Nagar
Tiruchirappalli, Tamil Nadu 620 018, India.

3.The Inspector of Police
Sirkazhi Police Station
Mayiladuthurai District
(Crime No.614/2023)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent herein to renew the petitioner's Indian Passport bearing No.L9467786 based on his application for renewal within a stipulated time that may be fixed by this Court and to pass



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any other appropriate order as this Court may deem fit and proper to the facts and circumstances of the case.

For Petitioner : Mr.G.Saravanan

For Respondents : Ms.R.Durga Rani
Standing Counsel for R1 & R2
Mr.L.Baskaran for R3
Government Advocate

ORDER

The petitioner herein seeks a direction to the first respondent to renew the passport bearing No.L9467786 within a time frame fixed by this Court.

2. According to the petitioner, he has been living with his family members at Sharjah in UAE and he is running an Auto Maintenance Workshop. The petitioner's passport expired on 31.05.2024. Therefore, the application for renewal of the same was submitted on 06.05.2024. Though he appeared before the first respondent on 15.05.2024 for the purpose of renewal of the passport, till date he has not received any communication from the first respondent regarding the renewal. On enquiry it came to the knowledge of the



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petitioner that his application requesting for renewal of the passport is pending, due to the registration of First Information Report against the petitioner on the file of the third respondent for the offence under Sections 279 & 304(4) of IPC. The petitioner appeared before the first respondent and filed an explanation stating that only investigation is pending against the petitioner and no charge sheet has been filed. In such circumstances, there may not be impediment for the first respondent to process the application for renewal of the passport. However, till date the request of the petitioner has not been considered. Hence, the petitioner is before this Court with the above mentioned prayer.

3. 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 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.

4. Ms.R.Durga Rani, learned Standing Counsel takes notice for



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the respondents 1 & 2 and Mr.L.Baskaran, learned Government Advocate (Crl.Side) takes notice for the third respondent.

5. The learned Government Advocate (Crl.Side) for the third respondent submitted that an FIR is registered against the petitioner in Crime No.614 of 2023 on the file of the third respondent for offence under Sections 279 & 304 (A) of IPC and investigation is pending.

6. In view of the statement made by the learned Government Advocate (Crl.Side) for the third respondent it is clear that no charge sheet has been filed against the petitioner.

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

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

.....

(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:—



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- (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 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;*



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- (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.”*

8. 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, admittedly no charge sheet has been filed against the petitioner.

9. Hence, as on today there is no proceedings pending against the petitioner in Criminal Court and the First Information Report filed against the petitioner is pending investigation. In such circumstances, there may not be impediment for the first respondent to process the application of the petitioner for renewal of the passport. Hence, the respondents 1 & 2 are directed to process the application submitted by the petitioner seeking renewal of the passport bearing No.L9467786 and pass final orders on its own merits, within a period of four weeks from the date of receipt of copy of this order.



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

costs.

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Index : Yes
Internet : Yes
Speaking Order/Non-Speaking Order
dna

To

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S.SOUNTHAR, J.

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