



W.P(MD)No.495 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.495 of 2024

and

W.M.P.(MD)No.518 of 2024

G.Nallathambi

..Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai 625 002.

2.The Inspector of Police,
Kandavarayanpatti Police Station,
Sivagangai District.
(Crime No.30 of 2018)

3.N.Thenmozhi

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Notice in No.SCN/315155819/23 dated 28.06.2023 passed by the Respondent No.1 and quash the same as illegal and consequently a direction, directing the Respondent No.1 to issue Passport to the petitioner vide file No.MD1075472153323 within the time stipulated by this Court.



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For Petitioner :Mr.B.Balamanikandan

For Respondents :Mr.K.Maharajan,
Central Govt. Standing Counsel for R1.
Mrs.M.Aasha,
Govt. Advocate (Crl. Side) for R2.
No appearance for R3

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus, to quash the impugned notice issued by the first respondent in No.SCN/315155819/23 dated 28.06.2023 and direct him to issue passport to the petitioner vide his Application No.MD1075472153323 within the time stipulated by this Court.

2.The case of the petitioner is that the petitioner is a holder of Indian Passport. The petitioner is aged about 50 years and having a children. The passport was obtained before the marriage. The petitioner was working as Driver in Cargo Detailing at Malaysia. The marital relationship between the petitioner and the third respondent came under strain. The third respondent lodged a complaint before the second respondent stating that the petitioner obtained the passport as unmarried. Thereafter, the petitioner surrendered the



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passport to the first respondent along with relevant materials to prove that the petitioner got married to the third respondent and sought re-issuance of passport with correct details. Based on the same, the complaint of the third respondent was closed on 07.07.2023. Thereafter, the third respondent lodged several complaints before the second respondent and the same are pending. In the meanwhile, the petitioner filed H.M.O.P.No.138 of 2021 before the Sub Court, Melur seeking dissolution of the marriage. In the said petition, the third respondent sought maintenance and the same was allowed in favour of the third respondent and the petitioner is paying the maintenance without any default. However, the first respondent issued the impugned notice to appear for enquiry. Hence, the petitioner left with no other option filed the present writ petition.

3.The learned counsel for the petitioner submits that the petitioner was working as Driver in Malaysia. Due to false complaints lodged by the third respondent, he was issued with passport and he is jobless. Therefore, he is not in a position to pay the maintenance amount as awarded by the Sub Court, Melur in H.M.O.P.No.138 of 2021. He also submitted that right to travel is a fundamental right. The petitioner through his counsel gives an undertaking that he will submit a fresh application with correct details.



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4.The learned Central Government Standing Counsel for the first respondent submitted that the petitioner is the holder of Indian passport. It was renewed periodically. But the petitioner failed to update his marital status. It is suppression of facts. Hence, the first respondent issued the impugned notice for enquiry. The petitioner instead of attending the enquiry filed the present writ petition. If the petitioner submits an application with correct particulars, the first respondent will consider the same and issue a passport.

5.The learned Government Advocate (Crl. Side) for the second respondent submitted that the complaints lodged by the third respondent regarding the marital status of the petitioner was closed on 07.07.2023 based on the surrender of passport by the petitioner. The other criminal cases registered against the petitioner is still at the FIR stage. Since the cases are pending only at the FIR stage, there is no impediment for the first respondent to grant the relief sought for in the writ petition.

6.Heard, Mr.B.Balamanikandan, learned counsel for the petitioner, Mr.K.Maharajan, learned Central Government Standing Counsel for the first respondent and Mrs.M.Aasha, learned Government Advocate (Crl. Side) for the



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second respondent. Though the third respondent has been served and her name is printed in the cause list, there is no appearance on her behalf.

7.Considering the facts and circumstances of the case and the fact that the petitioner surrendered his passport, the petitioner is permitted to submit a fresh application with correct details to the first respondent. The petitioner has to appear before the jurisdictional police and file an affidavit indicating his contact details. The petitioner apart from furnishing his residential address must also give his WhatsApp mobile number, e-mail ID. This is because, if any adverse final report is filed and the same is also taken on file by the jurisdictional criminal court, it should be possible to serve summons on the petitioner with the available details. The petitioner shall give an undertaking that the prosecution initiated against him will not be stalled on account of his absence from India. He should undertake that summons can be served on him through E-mail/WhatsApp. If necessary, the petitioner will have to execute a special vakalat in future so that he can be represented by his counsel in the proceedings in terms of Section 205 of Cr.P.C. Upon the first respondent being satisfied that such an undertaking affidavit has been filed before the second respondent, the first respondent shall process the petitioner's application and issue passport subject to fulfilment of the other usual formalities.



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V.BHAVANI SUBBAROYAN,J

ias

8.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

06.02.2024

NCC : Yes/No
Index : Yes/No
Internet :Yes/No
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To:-

The Inspector of Police,
Kandavarayanpatti Police Station,
Sivagangai District.

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