



W.P.(MD).No.1681 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1681 of 2024

Jeyaprakash

... Petitioner

vs.

1.The Regional Passport Officer,
Office of the Regional Passport Officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai.

2.The Inspector of Police,
Valayuthapattinam,
Devakottai, Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to reissue passport to the petitioner in the passport number W4577759 dated 19.12.2022 issued by the first respondent and clear the proceedings in file No.MD1074880501522 dated 19.12.2022 on the file of the first respondent in accordance with law within the time stipulated by this Court.

For Petitioner	: Mr.M.Karunakaran
For R1	: Mr.K.Govindarajan, Deputy Solicitor General of India
For R2	: Mrs.M.Aasha, Government Advocate(Crl.side)



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ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the 1st respondent to re-issue the petitioner's passport No.W4577759.

2. The case of the petitioner is that he obtained a passport in Passport No.W4577759. The said passport expired on 07.01.2024. Therefore, the petitioner made an application before the first respondent for renewal of his passport in File No.MD1074880501522, dated 19.12.2022. Subsequently, the first respondent has sent a communication, dated 06.11.2023, stating that adverse police verification report has been received stating that a case in Cr.No.33 of 2023 Under Sections 448, 294(B), 323, 506(i) of I.P.C., on the file of Velayuthapattinam Police, is pending against the petitioner and therefore, the petitioner's application cannot be recommended.

3. The grievance of the petitioner is that the said criminal case is foisted against him on the basis of a civil dispute and the said dispute has been sorted out and therefore, the petitioner did not mention the said case



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in his passport application. Narrating the said facts, on 09.01.2024, the petitioner sent a representation to the first respondent requesting to re-issue/renew his passport. However, till date the first respondent did not take any action on the petitioner's representation. Hence, the present writ petition has been filed.

4. The learned Government Advocate (Crl.side) appearing for the respondents, on instructions, would submit that after investigation in the case in Crime No.33 of 2023 on the file of the Velayuthapattinam Police Station, final report has been filed before the learned Judicial Magistrate, Devakottai and the same is not yet taken on file.

5. The learned counsel appearing for the petitioner has produced a decision of this Court in the case of ***W.Jaihar William and others vs. The State of Tamil Nadu and others reported in 2014(2) CWC 684***, wherein, it has been observed as follows:

"8.....the applications submitted by the Petitioners for passport were not considered by the third respondent for the reason that FIRs are pending against them. The Superintendent of Police , Tirunelveli, has filed counter



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affidavits stating that First Information Reports have been filed against the Petitioners for the alleged offences, stated supra, since they are involved in the agitation against the Koodankulam Nuclear Project. So far as the Petitioner in W.P(MD)No.8349 of 2014 is concerned, the criminal case has been registered under Sections 147, 148, 294(b), 353 and 307 IPC. Since the FIRs are pending against the Petitioners, the third respondent has not considered the applications of the Petitioners, by placing reliance on section 6(2)(f) of the Passports Act, 1967. Section 6(2)(f) reads as follows:

6. Refusal of passports, travel documents, etc---(i)....

(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 © of sub section (2) of Section 5 on any one or more of the following grounds and on no other ground namely:

(a) and (b).....

(f) that proceedings in respect of an offence alleged to have been committed by the Applicant are pending before the Criminal Court in India"

It is well settled legal principle that mere pendency of FIR cannot be construed as pendency of Criminal Proceedings



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in respect of the offences alleged to have been committed by the Applicant before the Criminal Court. Only after the Court takes cognizance of the offence alleged to have been committed by the Applicant, as stipulated under Section 190 of Cr.P.C, it can be construed as "proceedings pending before the Court".

6. This Court and various High Courts had allowed the Writ Petition of this nature on the ground that unless and until the Judicial Magistrate takes cognizance of the offence, the respondents/Officials cannot mechanically refuse to issue passport to the parties, stating that F.I.R., is pending and that mere pendency of F.I.R., cannot be construed as pendency of criminal proceedings and the same cannot be a bar for issuance of passport to the parties concerned.

7. In the present case, the case against the petitioner is pending in F.I.R., stage only and the same is not taken cognizance by the learned Judicial Magistrate concerned.

8. Therefore, in view of the above settled position of law, this Court directs the first respondent to consider the petitioner's application



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No.MD1074880501522, dated 19.12.2022 and pass appropriate orders, regarding renewal and re-issuance of passport, after getting explanation from the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

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

No costs.

30.01.2024

Index:Yes/No
NCC :Yes/No
PM

To

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V.BHAVANI SUBBAROYAN,J.

PM

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