



W.P.(MD).No.1969 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1969 of 2024

C.Prabakaran

... Petitioner

vs.

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

2.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 27.01.2024 and consequently direct the first respondent to issue the passport to the petitioner within the time frame as stipulated by this Hon'ble Court.

For Petitioner	: Mr.V.Muthumani
For R1	: Mr.A.Paramasivam
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 respondents to consider the petitioner's representation, dated 27.01.2024 and consequently direct the first respondent to issue passport to the petitioner within a stipulated period.

2. The case of the petitioner is that he obtained a passport in Passport No.M1313690. The said passport expired on 21.08.2024. Therefore, on 19.01.2024, the petitioner made an application before the first respondent for renewal of his passport in File No.MD2076181282524. Subsequently, the petitioner approached the second respondent for getting police verification report, who in turn, stated that since a criminal case is pending against the petitioner in Crime No.215 of 2023 on the file of the Karungal Police Station, Kanyakumari District, “clear” police verification report cannot be given.

3. The grievance of the petitioner is that he is working abroad. His employer asked the petitioner to join duty on 05.02.2024. Hence, he has to get the passport. Therefore, he made a representation before the first



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respondent on 27.01.2024 requesting to issue passport to him. Since the same has not been considered, the petitioner has filed this writ petition with the aforesaid prayer.

4. The learned Government Advocate (Crl.side) appearing for the respondents, on instructions, would submit that there are two cases registered against the petitioner. In one case, the petitioner got acquittal. In another case in Crime No.215 of 2023 on the file of the Karungal Police Station, Kanyakumari District, investigation has been completed and final report has been filed before the learned Judicial Magistrate, concerned 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 earlier criminal case registered against the petitioner ended in acquittal and now, a 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.



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8. Therefore, in view of the above settled position of law, since the petitioner has to join duty on 05.02.2024, this Court directs the first respondent to consider the petitioner's application No.MD2076181282524, dated 19.01.2024 and pass appropriate orders, regarding renewal and re-issuance of passport, after getting explanation from the petitioner forthwith.

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

31.01.2024

Index:Yes/No

NCC :Yes/No

Note:Issue Order Copy on 31.01.2024.

PM

To

1.The Regional Passport Officer,
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Race Course Road, Madurai – 625 002.

2.The Inspector of Police,
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V.BHAVANI SUBBAROYAN,J.

PM

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