



W.P(MD)No.11338 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.11338 of 2019

M.Abul Kalam Azath

... Petitioner

Vs

- 1.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai -625002.
- 2.The Superintendent Enquiry Officer,
The Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai -625002.
- 3.The Superintendent of Police,
O/c, Superintendent of Police,
Ramanathapuram.
- 4.The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified



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Mandamus, to call for the records of the impugned order passed by the second respondent in letter reference No.SCN/308468221/19, dated 04.04.2019 and quash the same as illegal and consequently directing the respondents to permit the petitioner travel abroad and ensure the passport bearing No.Z5253416 for using of travel abroad.

For Petitioner : Mr.I.Mohamed Razvi
For R1 & R2 : Mr.S.Paramasivam
Senior Panel Counsel
For R3 & R4 : Mr.M.Vaikkam Karunanidhi
Government Advocate

ORDER

Notice, dated 04.04.2019 issued by the passport authorities, calling upon the petitioner to offer his explanation as to the criminal case registered against the petitioner in Crime No.346 of 2016, for the offences punishable under Sections 307, 147, 294b IPC is under challenge in this writ petition.

2.The learned counsel appearing for the petitioner submits that the petitioner has applied for renewal of his passport on 25.03.2019 and the same was renewed and re-issued to the



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petitioner. Thereafter, the passport authorities have sent a notice, dated 04.04.2019 to the petitioner, calling upon him to offer his explanation on the adverse police verification report of the respondents 3 & 4 that he is involved in Crime No.346 of 2016, on the file of B3 Kenikarai Police Station for the offences punishable under Sections 307, 147, 294b IPC. According to the petitioner, he has been falsely roped in the case in Crime No.346 of 2016 and no final report has been filed before the concerned Magistrate Court. Hence, the petitioner has approached this Court in the year 2019.

3.The learned Senior Panel Counsel appearing for the respondents 1 & 2 submits that based on the adverse verification report of the respondents 3 & 4, they have issued the notice to the petitioner. The petitioner ought to have appeared before the passport authorities and offered his explanation. However, without doing so, the petitioner has approached this Court.



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4.The learned Government Advocate appearing for the respondents 3 & 4 submits that in case in Crime No.346 of 2016, a final report has been filed before the Principal Sub Judge, Ramnad and the same was taken on file as SC No.139 of 2022 and the next date of hearing is 05.03.2023.

5.The Passport Authority can refuse the passport and any travel documents under Section 6 of the Passport Act, 1967. Section 6(2)(F) of the Act would be relevant and the same is extracted as under:-

“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 -

...

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India.”



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6.The above provision enables the Passport Authority to refuse the passport or travel document to an applicant on the ground that proceedings in respect of an offence alleged to have been committed by the applicant is pending before a Criminal Court.

7.The Ministry of External Affairs, Government of India, has issued a statutory notification in GSR.570(E) dated 25.08.1993 with certain guidelines by providing relief to those applicants against whom criminal proceedings are pending before the Courts that they can obtain the passport by obtaining No Objection Certificate from the concerned Court and also by filing an undertaking as prescribed in the notification.

8.Ordinarily, the duration of a passport as per Rule 12 of the Passport Rules is for a period of 10 years. In the event if the applicant is facing any criminal proceedings, the passport may be issued by restricting the period. Therefore, the Passport Authority is



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not justified in not deciding the application filed by the petitioner for renewal of passport by referring the pendency of any criminal case before the Court.

9. Accordingly, this writ petition is disposed of with the following directions:-

- i. The petitioner shall file an affidavit of undertaking along with substantive sureties to ensure his availability for the trial, before the concerned Court where the case is pending. The Court, on satisfaction and after ensuring his availability for the trial, shall issue a No Objection Certificate to the petitioner enabling him to get his passport renewed.
- ii. The petitioner, thereafter, shall file an affidavit under GSR.570(E) along with a No Objection Certificate obtained from the concerned Court before the Passport



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Authority. On such presentation of the application, the Passport Authority shall consider the same and renew the passport for a temporary period depending upon the requirement. No costs.

19.01.2024

NCC :Yes/No
Index :Yes/No
Internet:Yes
vrn



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B.PUGALENDHI, J.

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