



W.P.(MD)No.23930 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.23930 of 2024
and
W.M.P(MD).No.20270 of 2024

Murugesan

. . . Petitioner

Vs.

1.The Regional Passport Officer,
New Municipal Complex,
Thillai Nagar, Seventh Cross,
Tiruchirapalli 620 018.

2.The Inspector of Police,
Karaiyur Police Station,
Pudukkottai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned clarification letter issued by the first respondent dated 11.07.2024 quash the same based on the petitioner's written explanation dated 25.07.2024 in respect of his passport number Y2461677 within time stipulated by this Court.

For Petitioner : Mr.S.Sathyachidambaram
For Respondents : Mr.B.Rajesh Saravanan (for R1)
Standing Counsel
Mr.M.Vaikkam Karunanithi (for R2)
Government Advocate (Crl.side)



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ORDER

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2. Heard both sides.

3.The petitioner was issued passport bearing number Y2461677 by the first respondent on 03.06.2024. After the issuance of passport, based on the adverse police report received against the petitioner, the first respondent sent a clarification letter to the petitioner stating that as to why the petitioner's passport should not be recalled. The petitioner has also given reply to the same.

4.The learned Standing Counsel for the first respondent would submit that the petitioner had suppressed the material facts of the criminal cases registered against him. On receipt of the adverse report from the respondent police, show cause notice has been issued to the petitioner for recalling the passport.



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5. The learned Government Advocate (crl.side) would submit that in the case registered against the petitioner under Section 379 IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act 1957, pending on the file of the second respondent, final report has been filed and the same is yet to be taken on file.

6. It is seen from the records that passport had been issued to the petitioner and now, the show cause notice has been issued to the petitioner based on the adverse report submitted by the jurisdictional police authorities stating that criminal cases are pending against him under Section 379 IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act 1957.

7. Considering the nature of crime, this Court is of the view that the passport authorities need not have gone to the extent of cancelling the passport issued to the petitioner. Even though final report has been filed in the case registered against the petitioner, since it is yet to be taken on file, one has to proceed on the premise that there is no proceeding pending before any criminal Court against the petitioner within the meaning of the statutory provision.



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8.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.

9.Upon the passport authority being satisfied that such an undertaking affidavit has been filed before the jurisdictional police, the impugned clarification letter issued by the first respondent dated 11.07.2024 is set aside and this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.10.2024

Index : Yes / No

NCC : Yes / No

Rmk



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To

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2. The Inspector of Police,
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N.SATHISH KUMAR, J.

Rmk

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