



Crl.O.P.(MD) No.18199 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.18199 of 2024

Julius Sornappan Nishanth

... Petitioner

-VS-

1.Tamil Nadu State Rep. by,
The Inspector of Police,
South Thamaraikulam Police Station,
Kanyakumari District.

2.The Regional Passport Officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai.

... Respondents

Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to call for the records and set aside the order passed in Crl.M.P.No. 503 of 2024 in C.C.No.110 of 2021, on the file of the Judicial Magistrate (FAC) / Additional Mahila Court, Nagercoil, dated 04.10.2024 and to direct the second respondent herein to renew the Passport in Passport No.M1842358.



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For Petitioner : Mr.S.Muniyandi
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Criminal side)
For R2 : Mr.S.Pon Senthil Kumaran

ORDER

The petitioner/Accused in C.C.No.110 of 2021, who is facing trial for the offences under Sections 147, 148, 294(b), 341, 323, 324, 506(ii), 153(a) and 295 I.P.C. and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998, had filed Crl.M.P.No.503 of 2024 in C.C.No.110 of 2021, before the trial Court, seeking no objection for renewal of his Passport No.M1842358. The trial Court, by order dated 04.10.2024, dismissed the said petition. Against which, the petitioner filed the present Criminal Original Petition.

2. The case against the petitioner and his family members is that they unlawfully assembled themselves and prohibited the de-facto complainant to install the idol in front of his house, which was removed by the National Highways Authorities during extension of the National Highway. The petitioner and his family members conspired together and attacked the de-facto complainant



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by using iron rod and lethal weapons in order to prohibit them to install the idol and used filthy language and threatened the de-facto complainant with dire consequences. Hence, the complaint.

3. The contention of the learned counsel for the petitioner is that the petitioner, along with his entire family members, namely, his parents and brothers has been implicated as accused in the above case. He further submitted that the petitioner did not cause any grievous injury or assault the victims in this case. Be that as it may, the petitioner, being a technically qualified individual, needs to travel for the advancement of his career and prospects. Since the petitioner's passport was due for renewal, he applied for its renewal, disclosing the pendency of the above case. The passport authorities placed the petitioner's application on hold. Subsequently, the petitioner filed a writ petition seeking the renewal of his Passport. By order dated 12.09.2024, this Court disposed of the writ petition, holding that the right to travel abroad is a fundamental right, and that the petitioner's career and livelihood could be at risk, if he is denied the right to go abroad. Further, this Court observed that, unless there are extraordinary circumstances, the trial Court should not deny the relief, and the validity of the



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petitioner's passport will need to be restricted accordingly, and gave liberty to the petitioner to move the trial Court seeking permission for renewal of his Passport.

4. The learned counsel for the petitioner further submitted that, as a general practice, passports are renewed for a period of ten years. Since this Court, in its order, had imposed a caveat that the time limit be restricted, the petitioner's passport can be renewed with certain limitations.

5. The learned counsel for the petitioner further referred to the judgment of the Hon'ble Supreme Court in the case of **Vangala Kasturi Rangacharyulu vs. Central Bureau of Investigation**, reported in **2021 SCC OnLine SC 3549** wherein the Hon'ble Apex Court had directed the passport authority to process the application of the applicant therein without raising objection relating to pendency of the Criminal Appeal and granted permission for renewal of the Passport. The only apprehension is that the petitioner should be available during the trial, to which the petitioner undertakes to appear and assures that he will not be the cause of any delay in the progress of the trial.



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6. The learned Government Advocate (Criminal side) for the first respondent strongly opposed the petitioner's contentions and submitted that the petitioner, along with others, had committed the offence, causing disharmony between two groups by attacking the de-facto complainant and damaging the idol. Further, in this case, three persons have been injured. Upon receiving information from the hospital, the Police went there, received the complaint, and registered the First Information Report. Thereafter, on completion of the investigation, the respondent Police filed a charge sheet. In this case, totally, there are five accused, who are facing trial. The trial can be completed within a stipulated time, as there are only a limited number of witnesses, namely L.W.1 to L.W.13, and hence, the learned Government Advocate (Criminal side) strongly opposed the Petition.

7. The learned counsel appearing for the second respondent Passport Authority submitted that in this case, the petitioner is an under-trial and not a convict. It is the regular practice that when the Passport Authorities become aware of any criminal case pending against an applicant, the passport is put on hold. If there is no objection from the concerned Court, the passport may be



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renewed. Normally, individuals facing criminal cases are not granted the standard renewal period of ten years, and the renewal is restricted based on the Court's order. If appropriate orders are issued, the Passport Authority has no objection to renew the petitioner's passport.

8. Considering the submissions and after perusing the materials, this Court finds that the right to travel is a fundamental right and cannot be denied merely because a criminal case is pending against the applicant. Admittedly, the petitioner is only an under-trial and not a convict and the other accused in this case are all his family members. The issue arises from an emotional outburst, and nothing more. Furthermore, as a diploma holder, he needs to travel abroad in furtherance of his career and life prospects. Now, the charge sheet copies have been handed over and the case has been posted for trial on 26.11.2024. In view of the same, this Court finds that the impugned order is not sustainable. Hence, the impugned order is set aside and the learned Judicial Magistrate, Additional Mahila Court (FAC), Nagercoil, is directed to give no objection for renewal of the petitioner's passport for a period of five years, subject to the condition that whenever the petitioner intends to travel abroad for employment, he must file an



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affidavit detailing his travel itinerary, place of stay, communication details, and an undertaking that his identity will not be disputed at any point of time. Furthermore, the petitioner must agree to the recording of evidence and ensure that his travel will not cause any delay in the progress of the trial and he shall appear before the trial Court on the specified dates when his presence is absolutely necessary.

9. With the above directions, this Criminal Original Petition is allowed.

NCC : Yes / No

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Index : Yes / No

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Note:- Issue order copy on 07.11.2024.

To:-

- 1.The Judicial Magistrate (FAC) /
Additional Mahila Court, Nagercoil,
- 2.The Inspector of Police,
South Thamaraiikulam Police Station,
Kanyakumari District.
- 3.The Regional Passport Officer,
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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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