



W.P.(MD).No.26269 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.26269 of 2024

Vijay

... Petitioner

Vs

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

2. The Inspector of Police,
S.P.Pattinam Police Station,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to renew and re-issue the passport to the petitioner by considering his application taken on file as file No.MD1076961084324, dated 23.09.2024 within the time that may be stipulated by this Court.



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For Petitioner : Mr. K.Yasar Arafath

For Respondents : Mr.P.Sundaravadivel (R1)
Standing Counsel

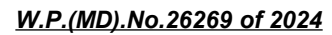
Mr.K.Gnanasekaran (R2)
Government Advocate (Crl.Side)

ORDER

The present writ petition has been filed seeking a direction to the 1st respondent to renew and re-issue the passport to the petitioner by considering his application (file No.MD1076961084324), dated 23.09.2024.

2.By consent of both parties, considering the limited relief sought for by the petitioner, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard, the learned counsel appearing for the petitioner, the learned Standing Counsel appearing for the first respondent and the learned Government Advocate (Crl.Side) appearing for the second respondent. Perused the materials available on record.



5.It is a settled proposition of law that the pendency of an FIR is no bar for issuance of passport and this Court in W.P.(MD)No.3252 of 2016 dated 20.03.2017 has dealt with a similar case and the relevant portion of the same is extracted as follows:

“4. The learned counsel appearing for the petitioner placed on a decision reported in **2014(2) CWC 684** (M.Jaihar William vs. State of 6 Tamil Nadu). According to the said decision, mere pendency of the FIR cannot be construed as pendency of criminal proceedings, unless the Judicial Magistrate takes cognizance of offence on filing of charge sheet of complaint and investigation against accused.



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5. *The learned Judge of this Court taking note of various decisions rendered on the subject matter, categorically concluded that mere pendency of the FIR cannot be a bar for consideration of the claim for issuance of passport. The learned Judge has clearly held in paragraph 10 of the said decision as follows:-*

"10. For the same proposition of law, the learned counsel for the petitioners has also relied upon the judgment delivered by the Andhra Pradesh High Court reported in 1994 CrI.L.J.257 [Mathumari China Venkatareddy and others Vs. State of Andhra Pradesh], wherein it has been held that until the charge-sheet has been filed, a Magistrate cannot be said to have taken cognizance of any offence and that the Magistrate can take cognizance of the offence and direct the issue of process only on receipt of a police report and that till that stage is reached, he is said to be acting only as a Magistrate controlling the investigation made by the police. It has been further held in the said judgement follows:-

"The judicial act commences only when the charge-sheet is in order and the Magistrate proceeds further under Chapter XVI. Unless the charge-sheet is in the official custody of the Court together with its accompaniments to be furnished to the accused, it cannot be construed that there is a filing of charge-sheet. Chapter XVI relates to commencement of proceedings before Magistrates, process to be issued when Magistrate takes cognizance of the offence."



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Therefore, it is clear that unless the Judicial Magistrate takes cognizance of the offence, on filing of charge-sheet on completion of investigation against the applicant, it cannot be said that the proceedings are pending before the Criminal Court. Therefore, in my considered opinion, the 3rd respondent cannot mechanically refuse to issue passport to the petitioners, merely for the reasons that the FIRs are pending against the petitioners. On receipt of the application for passport, the 3rd respondent shall consider the same and pass appropriate orders."

6. Fully fortified by the aforesaid decision, this Court is of the considered view that the 1st respondent ought to have considered the application for issuance of passport submitted by the petitioner without reference to an FIR lodged against him and should have issued a Passport, if he is otherwise eligible for the same.

7. In view of the same, the petitioner is further required to appear before the 1st respondent office within a period of one (1) week from the date of receipt of a copy of this order and make a written explanation in person and through registered post. On receipt of the same, the 1st respondent is directed to issue a passport by considering the petitioner's application, if he is otherwise



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eligible, within a period of four weeks from the date of receipt of the explanation from the petitioner.

8. With the above directions, this writ petition stands disposed of.

There shall be no order as to costs.

04.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM

To

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

2. The Inspector of Police,
S.P.Pattinam Police Station,
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L.VICTORIA GOWRI, J.

PNM

**ORDER IN
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