APHC010027192025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3331]**
(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 1633/2025

Between:

1. SUKHAVASI SATHEESH, S/O. SUKHAVASI BASAVAIAH, AGED ABOUT 41 YEARS,R/O. D.NO.6-10-37/1, NIZAMPATNAM ROAD, 21ST WARD, REPALLE, BAPATIA DISTRICT.

...PETITIONER

AND

1. THE UNION OF INDIA, MINISTRY OF EXTERNAL AFFAIRS. REP. BY ITS PRI. SECRETARY, SOUTH BLOCK. NEW DELHI - 110 001.
2. PASSPORT AUTHORITY OF INDIA, REP. BY ITS CHIEF PASSPORT OFFICER, PSP DIVISION, MINISTRY OF EXTERNAL AFFAIRS, ROOM NO.8, PATIALA HOUSE, TILAK MARG, NEW DELHI - 110 001.
3. THE REGIONAL PASSPORT OFFICE, REP. BY ITS REGIONAL PASSPORT OFFICER, 4TH FLOOR, STALIN CENTRAL, D.NO. 27-37-158, GOVERNORPET, M.G. ROAD, VIJAYAWADA- 520002
4. THE STATION HOUSE OFFICER, REPALLE POLICE STATION, BAPATIA DISTRICT

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents more particularly respondent No.3 in not renewing the passport of the petitioner (Old Passport NO.N0251567) as per the application/File No.VJ2077271779325, dated

03.01.2025 on the ground of registration of criminal case against the petitioner vide FIR No. 142 of 2024 of Repalle Police Station, Bapatia District as illegal, arbitrary, contrary to the provisions of Passport Act 1967, judgments of the Honourable Supreme Court and this Honourable High Court and consequently direct the respondents to renew and issue the passport to the petitioner and and to pass such

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Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to direct the respondents to renew and issue the passport as per application No. No.VJ2077271779325, dated 03.01.2025, pending disposal of the Writ Petition pending disposal of the above writ petition and to pass such

Counsel for the Petitioner:

1. SIVA RAMA KRISHNA KOLLURU

Counsel for the Respondent(S):

1. GP FOR HOME
2. DIVYA DATLA(CENTRAL GOVERNMENT COUNSEL)

The Court made the following:

:: ORDER ::

The above writ petition is filed to declare the action of respondent No.3 in not renewing / re-issuing the passport, in pursuance of the application made by the petitioner *vide* File No.VJ2077271779325, dated 03.01.2025, due to the pendency of a criminal case in Cr.No.142 of 2024 of Repalle PS, Bapatla District, as illegal and arbitrary.

2. Heard Sri K. Siva Rama Krishna, learned counsel for the petitioner and Smt. Divya Datla, learned Standing Counsel, appeared for respondents 1 to 3

and Sri Ajay, learned Assistant Government Pleader for Home, appeared for respondent No.4.

3. The petitioner applied for a passport and the authorities issued a passport *vide* No.N0251567 on 22.06.2015, valid up to 21.06.2025. The petitioner applied for renewal of the passport by making an application *vide* File No.VJ2077271779325, dated 03.01.2025. Respondent No.3 issued a shortfall notice dated 07.01.2025 (Ex.P2), due to an adverse police verification report. In para No.5 of the affidavit, it was pleaded that the petitioner appeared before respondent No.3, in turn, the respondent No.3 informed orally about the stage of the crime.

4. Sri Ajay, learned Assistant Government Pleader for Home would submit that a case in Cr.No.142 of 2024, for the offence punishable under Sections 420, 406, 379, 506 r/w 34 of IPC, was registered against the petitioner by Repalle PS, Bapatla District, on 17.08.2024, wherein the petitioner was shown as accused No.1. The investigation is pending. Notice under Section 41-A of Cr.P.C was served on the petitioner.

5. The Hon'ble Apex Court in **Maneka Gandhi v. Union of India**[1], observed that the right to travel abroad is a part of personal liberty and the right to possess a passport etc., can only be curtailed following law and not on the subjective satisfaction of anyone.

6. The Division Bench of the Hon'ble Apex Court in its decision reported in **Satish Chandra Verma v. Union of India (UOI) and others**[2], observed as under:

> *"The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by*

[1] (1978) 1 SCC 248): AIR 1978 SC 597
[2] LAWS 2019(2) SCC Online SC 2048

extending the scope of his experience. The right also extends to private life; marriage, family and friendship which are the basic humanities which can be affected through refusal of freedom to go abroad and this freedom is a genuine human right."

7. The Hon'ble Apex Court **in Sumit Mehta v. State of NCT of Delhi**[3], observed as follows:

"The law presumes an accused to be innocent till his guilt is proved. As a presumable innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution of India."

8. The Division Bench of this Court in W.A.No.383 of 2024, considered the said aspect of cognisance by the Court in a criminal case vis-a-vis an application made for the issuance of a passport and observed as follows:

"16. Considering the facts of the present case on the touchstone of the principles laid down in the aforementioned judgments, it is clear that the Court of Special Mobile Judicial First Class Magistrate, Kakinada, having not taken judicial notice of the charge sheet filed before it, cannot be said to have taken cognizance much less can the Court be said to have initiated proceedings in terms of Chapter XVI of the Code of Criminal Procedure.

17. Therefore, we would have no hesitation in holding that proceedings would be said to have been pending only if cognizance had been taken by the Court and steps had been taken by the Court under Chapter XVI of the Code of Criminal Procedure. Since, there was no cognizance taken, there would be no question of 'proceedings pending before a criminal Court', which would attract the provisions of Section 6(2)(f) of the Passports Act, 1967."

[3] 2013 (15) SCC Page 570

9. In the case at hand, no charge sheet (final report) has been filed by the investigating agency so far. Mere pendency of a criminal case is no bar in renewing the passport.

10. Given the facts and circumstances of the case, the Writ Petition is disposed of, directing the respondent No.3 to renew/re-issue the passport of the petitioner, in pursuance of the application made *vide* File No.VJ2077271779325, dated 03.01.2025, without reference to Cr.No.142 of 2024, Repalle P.S. Bapatla District, keeping in view of Rule 12 of the Passport Rules. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

Date : 04.04.2025
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