



Crl. O.P. No. 5996 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P. No. 5996 of 2025

and

Crl. M.P. No. 3843 of 2025

Sanoka Sadanandam. S

... Petitioner

Vs.

1.The Inspector of Police,
Central Crime Branch – II,
Vepery, Chennai – 600 007.

2.The Immigration Officer,
Bureau of Immigration,
Chennai Airport, Meenambakkam,
Chennai – 600 016.

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in Crime No. 85 of 2021 on the file of the respondent and quash the same.

For Petitioner : Mr. G. Murugendran

For Respondent : Mr. A. Gopinath, for R1
Government Advocate (Crl. Side)



Crl. O.P. No. 5996 of 2025

WEB COPY

ORDER

This Criminal Original Petition has been filed to call for the records in Crime No. 85 of 2021 for the offence punishable under Section 12 (1-A)(a) of Passport Act, 1967 and Section 420, 468 & 471 of IPC.

2. The case of the prosecution is that, on 19.08.2021 the petitioner intended to depart to Srilanka and approached immigration clearance. On scrutiny of her travel documents and further enquiry, she had obtained Indian Passport fraudulently suppressing the details about her nationality and place of birth. In the Indian Passport, she changed her name from Sanoka to Sanoha. She willfully cheated and dishonestly induced the passport and fraudulently obtained an Indian passport by suppressing the information about her nationality and place of birth.

3. On the complaint, the first respondent registered the FIR in Crime No. 85 of 2021 for the offences punishable under Sections 12 (1-A)(a) of Passport Act, 1967 and Section 420, 468 & 471 of IPC.

4. A specific case of the prosecution is that, the petitioner was born



Crl. O.P. No. 5996 of 2025

WEB COPY

on 16.06.1989 in Srilanka and she came to India on 25.05.2009 through the Srilankan Passport. In the meanwhile, the petitioner had lost her passport and while she was staying in India, she developed a love affair with one Raja in the year 2010 and got married. She is residing in India and gave birth to two children. Thereafter, the petitioner had applied for Indian passport by producing her marriage certificate, Aadhar card and other documents. Accordingly, she was issued Indian Passport in R1748933. Now the first respondent registered the FIR with the above allegations.

5. In fact, the petitioner has already filed writ petition before this Court in W.P. No. 20057 of 2022 for a direction directing the second respondent to issue passport to the petitioner. This Court by order dated 06.06.2024 observed that she can very well apply for her citizenship of India as Indian, since she got married in the year 2010 with the Indian and she is living in India for the past 14 years. Further, once the offence attract under Passport Act, there is no need to register case under Indian Penal Code.



Crl. O.P. No. 5996 of 2025

WEB COPY

6. Learned counsel for the petitioner also rely upon the judgment of Hon'ble Supreme Court in ***Suresh Nanda v. Central Bureau of Investigation*** reported in **(2008) 3 SCC 674**, held that the Passport Act is a special law while CrPC is a general law. It is well settled that the special law prevails over the general law.

7. Learned Government Advocate for the first respondent filed a counter affidavit. On instructions, Mr.A.Gopinath, the learned Government Advocate submits that the petitioner was born in Srilanka and her parents also in Srilanka. All three had Srilankan passport and on the Srilankan passport, the petitioner had visited India. Once again the petitioner suppressed the above fact and obtained Indian passport. Therefore, the offences under Sections 12 (1-A)(a) of Passport Act, 1967 and Section 420, 468 & 471 of IPC are clearly made out as against the petitioner.

8. Learned Government Advocate further submitted that the investigation is completed.



Crl. O.P. No. 5996 of 2025

WEB COPY

9. Since the petitioner is living in India for more than 15 years and she is entitled to apply for citizenship in India. Accordingly, the petitioner applied for citizenship of India and it is pending. Insofar as the offence under Section 12 (1-A)(a) of Passport Act, 1967 and Section 420, 468 & 471 of IPC, it is punishable for a period of one year. Therefore, the first respondent failed to file final report within a period of 1 year from the date of registration of FIR. However, the first respondent filed a final report only on 02.03.2025 i.e., very much after a period of 3 ½ years. Therefore, the trial Court cannot take cognizance for the offence punishable under Section 12 (1-A)(a) of Passport Act, 1967 and Section 420, 468 & 471 of IPC.

10. In view of the above, the FIR in Crime No. 85 of 2021 on the file of the first respondent, is hereby quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

03.03.2025

Index : Yes/No

Page 5 of 7



Crl. O.P. No. 5996 of 2025

Neutral citation : Yes/No

WEB COPY

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3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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