

Crl.R.C.No.1050 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 05.08.2025

Coram:

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No.1050 of 2025 &
Crl.M.P.No.13682 of 2025

A.Rajendran

...Petitioner

Vs.

The State rep. By
The Deputy Superintendent of Police,
Q Branch CID, Chennai City,
Chennai – 4
(Crime No.1 of 2019)

...Respondent

Prayer:

Criminal Revision filed under Section 438 r/w Section 442 of BNSS, 2023 to call for the records relating to the order dated 21.03.2025 made in Crl.M.P.No.14520 of 2024 in C.C.No.13168 of 2022 on the file of the learned Metropolitan Magistrate No.II, Egmore, Chennai and set aside the same and allow the present Revision.

For Petitioner : Mr.N.Manoharan for
Mr.C.Santhosh Kumar

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



CrI.R.C.No.1050 of 2025

ORDER

WEB COPY

This Revision has been preferred as against the order passed in CrI.M.P.No.14520 of 2024 in C.C.No.13168 of 2022 dated 21.03.2025 thereby dismissed the petition filed by the petitioner to discharge him.

2. The case of the prosecution is that some of the accused persons, who are Srilankan nationals approached a passport agent to apply for and procure Indian Passport. All the accused persons prepared bogus and fabricated documents and submitted the same on the online portal for applying for an Indian Passport. They also colluded with passport officials and police personnels and obtained Indian Passport by submitting fake and fabricated documents. The passport officials and police officials have granted incorrect Police Verification Report regarding the identity, address and nationality of the Srilankan Nationals and have issued Indian Passports. Hence a complaint was lodged. The respondent registered FIR in Crime No.1 of 2019 for offence under Sections 120(b), 420, 465, 468, 471 of IPC and 3(12)(1A)(a) and 121(1A)(b) and 12(2) of Passport Act. After completion of investigation, a final report was filed and the same was taken cognizance in C.C.No.13168 of 2022. The petitioner is arrayed as 44th accused and he filed a petition to discharge and it was dismissed by the trial court. Aggrieved by the same, the petitioner has

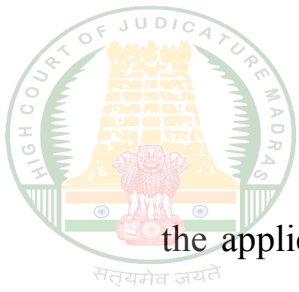


come up with the present revision.

WEB COPY

3. Heard the learned counsel on either side and perused the documents placed on record.

4. The learned counsel for the petitioner would submit that even according to the case of the prosecution, the petitioner acted as investigation officer, therefore, he never abets anybody for issuance of passport. Further, under Section 15 of the Passport Act, the respondent ought to have obtained sanction to initiate prosecution as against the petitioner from the Central Government, but instead, the respondent obtained sanction from the Commissioner of Police, who is not a competent authority to grant sanction for prosecution. However, as per Section 16 of the Passport Act, when an act is done by a person in good faith, he cannot be prosecuted for the offence punishable under Passport Act. He also relied upon the Official Memorandum issued by the Chief Passport Officer, Ministry of External Affairs, Government of India dated 26.10.2018 with regard to the new police verification process, accordingly, the new police verification report is confined only to the citizenship of the applicant. The police authorities are not required to check the identity of the applicant and they are also not required to verify the address of



the applicant. There is no need for the police authority to meet the applicant

WEB COPY

and match their signature for the police verification report. Further, the petitioner, who is the Inspector of Police had deputed his Head Constable to complete police verification. The said verification report was jointly signed by the petitioner and the Deputy Superintendent of Police, who is the higher officer. However, the prosecution implicated the petitioner alone as an accused. The other officer, who signed the verification report is not implicated as an accused. Further, Section 15 of the Passport Act says about sanction to be obtained from the Central Government to prosecute under the Passport Act. The respondent had failed to obtain any sanction from the Central Government and the sanction was obtained from the Commissioner of Police, who is not the competent authority to issue sanction to prosecute the petitioner, therefore, the entire prosecution is an abuse of process of court. There is a legal bar against the institution of criminal proceedings under the Passport act. In support of this contention, he relied upon the **Judgment of Hon'ble Supreme Court reported in [2025] 5 Supreme Court Cases 390 [G.C.Manjunath and Others Vs. Seetaram]** in which the Hon'ble Supreme Court has held that paragraph nos.41, 43 and 44 as follows:-

“41. In the light of the aforesaid judgments, the guiding principle governing the necessity of prior sanction stands well crystallied. The pivotal inquiry is whether the impugned act is



WEB COPY

reasonably connected to the discharge of official duty. If the act is wholly unconnected or manifestly devoid of any nexus to the official functions of the public servant, the requirement of sanction is obviated. Conversely, where there exists even a reasonable link between the act complained of and the official duties of the public servant the protective umbrella of Section 197 Cr.P.C., and Section 170 of the Police Act is attracted. In such cases, prior sanction assumes the character of a sine qua non, regardless of whether the public servant exceeded the scope of authority or acted improperly while discharging his duty.

42. Turning to the case at hand, there is little doubt that the allegations levelled against the accused persons are grave in nature. Broadly classified, the accusations against the accused persons encompass the following:-

(1) abuse of official authority by the accused persons in allegedly implicating the complainant in fabricated criminal cases, purportedly driven by malice or vendetta

(2) physical assault and ill-treatment of the complainant by the accused persons, constituting acts of alleged police excess;

(3) wrongful confinement of the complainant; and

(4) criminal intimidation of the complainant

43. In the circumstances at hand, we are of the considered opinion that the allegations levelled against the accused persons, though grave, squarely fall within the ambit of “acts done under colour of, or in excess of, such duty or authority”, as envisaged under Section 170 of the Police Act and Section 197 Cr.P.C.,

44. This Court, while adjudicating on instances of alleged



WEB COPY

police excess, has consistently held in Virupaxappa Veerappa Kadampur Vs. State of Mysore reported in 1962 SCC Online SC 395 and D.Devaraja Vs.Owais Sabeer Hussain reported in (2020) 7 SCC 695 that where a police officer, in the course of performing official duties, exceeds the bounds of such duty, the protective shield under the relevant statutory provisions continues to apply, provided there exists a reasonable nexus between the impugned act and the discharge of official functions. It has been categorically held that transgression or overstepping of authority does not, by itself, suffice to displace the statutory safeguard of requiring prior government sanction before prosecuting the public servant concerned.”

5. On perusal of the counter filed by the respondent and on the submissions made by the learned Government Advocate (Crl.Side) appearing for the respondent, it is revealed that, totally 46 accused are involved in this case, in which the petitioner is arrayed as 44th accused. While the petitioner was working as Inspector of police in Srirangam police station, Trichy, he had conducted passport verification of Srilankan National, who is arrayed as A.14, on his application for Indian Passport for the 2nd time in the name of Gunasekar S/o Annamalai, on failure of his 1st attempt in the name of Sivasankaran s/o Annadurai. On verification, it was found that no such person is residing in the said address and on the said ground, his application for passport was rejected during the first attempt. Therefore, once again, the 14th accused approached the 1st accused through 9th accused, who are passport agents to obtain Indian



WEB COPY

Passport afresh. The 1st accused prepared fake documents, such as SSLC mark sheet, Aadhar card, etc., through 5th accused, who instructed the 14th accused to sign the fabricated documents as Gunasekar and submitted online application that too in the impersonated name. Further, they paid application fee of Rs.1,500/- to Kannan Periyasamy, the Senior Passport Agent, Regional passport officer, who is arrayed as A.23, who conspired with other passport agents and also with the police personnel in the petitioner's police station to clear the police verification. The 14th accused was arranged an interview on 07.03.2019 by producing fabricated documents in the name of Gunasekar s/o Annamalai and by submitting incorrect verification report. The police verification report contains three stages:-

(i) In the first stage, the field verification staff will verify the report and remarks with regards to, whether there is any reason to believe that the applicant is not a citizen of India, whether he / she is facing any criminal charges, whether the applicant is convicted on any crime, whether any warrant or summons pending against the applicant.

(ii) In the second stage, the jurisdictional police station has to verify the details submitted by the field verification officer and answer six questions that the applicant is involved or likely indulged in activities, which are prejudicial to the sovereignty and integrity of India, the security for India, friendly relations of



Crl.R.C.No.1050 of 2025

India with any foreign country or interests of general public through the user ID

WEB.COM allotted to the applicant.

(iii) The 3rd stage is that after perusal of the report submitted by the Inspector of Police, the nodal officer, approves the police verification report in respect of passport verification and send the same to the concerned regional passport office.

6. In the case on hand, the application of the 14th accused along with police verification report, supporting documents was received, in which the petitioner / 44th accused, Inspector of Police has affixed his signature in the passport police verification report using his login credentials and sent a clear report. However, the petitioner failed to do the verification, since he conspired with other accused persons and cleared the verification report using his login credentials, knowingly issued an incorrect verification report authorising Srilankan Tamilan as Indian Citizen. In fact, the police verification was conducted by the petitioner's police station twice for the same accused A.14 within a span of two months and on the basis of incorrect verification, the passport has also been issued to A.14. Therefore, the accused persons had committed offences under Section 12(2) of the Passport Act. Further, the petitioner is an authorised person to use login credentials during the period of



his service in his station and the same was used by the petitioner for verification

of police verification report submitted by the field verification officer, who is also arrayed as A.39 with respect to the passport verification of A.14. Therefore, there are incriminating materials available against the petitioner to frame charges under Sections 120(b), 419, 420, 465, 467, 468, 471, 109 PC r/w Section 3, 12(1-A), 12(1-A)B), 12(2) of Passport Act, 1967 and Section 3(2)(a) & (c), 14A(b) of Foreigners Act, 1946.

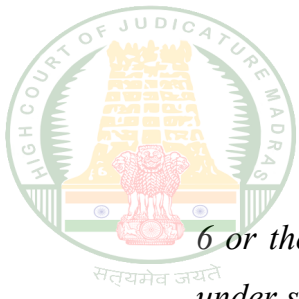
7. Insofar as the sanction is concerned, as contemplated under Section 15 of the Passport Act, it is relevant to extract the provision under Section 15 of the Indian Passport Act

“15. Previous sanction of Central Government necessary

No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorized by that Government by order in writing in this behalf.”

thus it is clear that previous sanction is necessary to prosecute the accused under passport act. Further **Section 21 of the Passport Act, 1967 says about the power to delegate:**

The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under clause (d) of sub-section (1) of section



6 or the power under clause (i) of sub-section (2) of that section or the power under section 24, may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed-

(a) by such officer or authority subordinate to the Central Government;

or

(b) by any State Government or by any officer or authority subordinate to such Government; or

(c) in any foreign country in which there is no diplomatic mission of India, by such Consular Officer; as may be specified in the notification.

thus it is clear that the central government can delegate power to issue sanction for prosecution by any state government or by any officer subordinate to such government, accordingly, the central government delegated the power to the Government of Tamilnadu and accordingly, the commissioner of police issued sanction to prosecute the petitioner under the passport act.

8. On a perusal of the sanction issued by the Commissioner of Police, Tiruchirappalli City by way of proceedings dated 22.06.2022 it is seen that the sanction was accorded to prosecute the petitioner under the Passport Act. The Commissioner of Police is a Government authority and in exercise of power conferred under Rule 2 of Tamilnadu Police Subordinate Service [Discipline and Appeal] Rules, 1955, after having been satisfied and after careful verification of all the documents placed, accorded sanction to prosecute the petitioner. Moreover, the judgment relied upon by the learned counsel for the



Crl.R.C.No.1050 of 2025

petitioner is not applicable to the case on hand.

WEB COPY

9. In view of all the above, this Court is of the view that the trial court has rightly dismissed the petition to discharge the petitioner and this Court finds no infirmity or illegality in the order passed by the trial court in Crl.M.P.No.14520 of 2024 dated 21.03.2025 and the present Revision deserves to be dismissed and accordingly, the same is dismissed. However, the appearance of the petitioner before the trial court is dispensed with. Consequently, connected miscellaneous petition is closed.

05.08.2025

Index : Yes / No
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

G.K.ILANTHIRAIYAN, J.

ssd

To

1. The II Metropolitan Magistrate, Egmore, Chennai

2. The State rep. By

Page 11 / 12



Crl.R.C.No.1050 of 2025

The Deputy Superintendent of Police,
Q Branch CID, Chennai City,
Chennai – 4

3. The Public Prosecutor, High court, Madras

Crl.R.C.No.1050 of 2025

05.08.2025