



W.P.(MD)No.1701 of 2025

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.1701 of 2025

Ramesh

... Petitioner

Vs.

1.The Secretary,
Ministry of External Affairs,
Government of India,
New Delhi 110 001.

2.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Salai,
Madurai 625 002.

3.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
Crime No.16 of 2024

... Respondents

PRAYER : Petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Mandamus directing the third respondent to submit the police report to the second respondent and subsequently the second respondent be directed to issue the police clearance certificate based on the petitioner's PCC application Reference No.25-2000076480, upon considering petitioner's representation dated 08.01.2025 within the time fixed by this Court.



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For Petitioner	: Mr.P.Jeyashankar
For R1 & R2	: Mr.V.Malaiyendran
For R3	: Mr.A.Thiruvadikumar
	Additional Public Prosecutor

ORDER

The petitioner had sent a representation on 08.01.2025 and the same has not been considered by the respondents 2 and 3. Hence, he had filed the above petition. The petitioner's representation is to seek Police Clearance Certificate. The petitioner is working in abroad from the year 2022 and he used to visit his native place on vacation. The petitioner's mother is being tortured by his brother for property. When the petitioner had questioned the same, his brother has abused and assaulted the petitioner and the petitioner had only attempted to prevent the attack made on him. Thereafter, case in Crime No.16 of 2024 on the complaint given by the petitioner's brother and Crime No.15 of 2024 on the complaint given by the petitioner came to be registered. The petitioner had filed a quash application. In the meanwhile, it is seen that charge sheet filed in C.C.No.301 of 2024 before the learned Judicial Magistrate, Eraniel, Kanyakumari District, for the offence under Sections 294(b), 324 and 506(ii) of IPC, in Crime No.16 of 2024. Hence, the petitioner



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was called to appear. The contention of the petitioner is that the petitioner can very well participate in the trial through video conferencing mode and further, for the purpose of obtaining engineering license, the petitioner needs Police Clearance Certificate.

2. Mr.V.Malaiyendran, learned counsel appearing for the Passport Authorities submitted that this Court in W.P(MD).No.28408 of 2024 by order dated 06.12.2024 had passed an order for the similar prayer, wherein this Court had issued certain directions following the order passed by the ***Hon'ble Kerala High Court on 07.06.2023 in W.P. (C).No.9369 of 2023*** in the case of ***EJO P.J., Vs., Regional Passport Office, Ministry of External Affairs, Government of India***. He further submitted that in the said order, the Passport Authority had submitted that it is for the Police to issue certificate and not the Passport Authority and they did not have any mechanism to give such Clearance Certificate and only the concerned police have to verify and give certificate. Thereafter, the same would be uploaded in the system and appropriate certificate would be given. He further submitted that on the directions of this Court the issue is now being considered by the Ministry. After getting appropriate report from the jurisdictional Police, Police Clearance



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Certificate are generated and issued to the applicants. With regard to presence who having criminal case and trial is pending, it is for the concerned trial Court to give No Objection Certificate depending upon the seriousness of the offence, the requirement for presence of the petitioner and other aspects are involved. In the above case, the petitioner admits that criminal case is pending against him in CC.No.301 of 2024 before the learned Judicial Magistrate, Eraniel.

3. The learned Additional Public Prosecutor submitted that on the complaint of the petitioner's brother, case in Crime No.16 of 2024 has been registered as against the petitioner for the offence under Sections 294(b), 324 and 506(2) of IPC. On conclusion of investigation, now charge sheet filed listing L.W.1 to L.W.10 before the learned Judicial Magistrate, Eraniel, in CC.No.301 of 2024. The petitioner to approach the concerned criminal Court and file an application seeking for issuance of Police Clearance Certificate.

4. The learned counsel for the petitioner admits that now investigation has been completed and charge sheet filed.



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5. In view of the above, this Writ Petition seeking relief against the respondents does not arise and this Court directs the petitioner to approach the learned Judicial Magistrate, Eraniel, and make a petition seeking for issuance of Police Clearance Certificate enabling him to continue his employment in abroad. It is for the concerned trial Court to consider the prayer that the petitioner in consonance with the requirement of the trial Court in CC.No.301 of 2024.

6. The learned counsel for the petitioner further submitted that the petitioner is ready to participate in the trial and since the petitioner's admitted position is that he is employed in abroad and for that purpose, he has to stay there and hence, the trial Court not to insist the presence of the petitioner physically and he may be permitted to appear through video conferencing and be represented by his counsel.

7. As regards above request, the trial Court to consider the same and entertain the petition.



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8. With the above direction, this Writ Petition is disposed of. No

costs.

28.01.2025

NCC : Yes / No

Index : Yes / No

Rmk

To

1.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

Rmk

Order made in
W.P.(MD)No.1701 of 2025

Dated: 28.01.2025