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W.P.(MD)No.1794 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.1794 of 2025

Sathiya Prakash

... Petitioner

Vs.

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Regional Passport Officer,
Regional Passport Office,
Kochadai, Madurai 625 016.

3.The Inspector of Police,
Rajapalyam South Police Station,
Virudhunagar District.
Crime No.278 of 2024

... Respondents

PRAYER : Petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Mandamus directing the first and third respondents to issue a Police Clearance Certification (PCC) to fly abroad, in view of representation dated 03.12.2024 within the stipulated time.

For Petitioner : Mr.M.Jothi Basu

For R1 & R3 : Mr.A.Thiruvadikumar
Additional Public Prosecutor



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For R2

: Mr.S.Karthick
Standing Counsel

ORDER

The petitioner had sent a representation on 03.12.2024 seeking for Police Clearance Certificate and No Objection Certificate. Since no action has been taken, the above petition has been filed.

2. The learned counsel for the second respondent submitted that as far as the Passport Authority is concerned, they have no mechanism to verify the antecedent of the applicants. It is for the police to verify the antecedent of the applicants. He further submitted that the Police Clearance Certificate issued by the Passport Officer is a computer generated certificate. In the format, there is no facility to include other details and software is custom mode, for that reason, this Court in W.P(MD).No.26485 of 2024 by order dated 05.12.2024 had directed the Ministry to make facility in the software. But the Ministry is yet to take a decision. He further submitted that if the respondent police gave clearance about the criminal conduct of the petitioner, the same would be considered and Police Clearance Certificate can be given.



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3. The learned Additional Public Prosecutor submitted that in this case, the petitioner is involved in Crime No.278 of 2024 and the third respondent had registered a case for the offence under Sections 8(C) r/w 20(b)(ii)(B) of NDPS Act and Section 77 of Juvenile Justice (Care and Protection of Children) Act. He further submitted that the petitioner approached the concerned criminal Court.

4. The learned counsel for the petitioner opposed the learned Additional Public Prosecutor's contention stating that in W.P(MD).No. 20058 of 2020 in the case of *Ahamed Fahath Vs., The Regional Passport Officer and another*, this Court by order dated 04.02.2021 had observed that in the event of case is pending at FIR stage, no final report has been filed, which cannot be held that criminal proceeding has been pending against the petitioner. The Criminal proceedings commences only after a final report is filed before the concerned Court and the same is taken cognizance. In view of the same, in that petition, this Court had directed the Regional Passport Authority to renew the passport of the petitioner therein. Likewise, in this case, admittedly, against the petitioner only FIR is pending and hence, Police Clearance Certificate to be issued. He further submitted that the petitioner is B.E. graduate and



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he had got employment opportunity in Poland and intend to travel there, because of non-issuance of Police Clearance Certificate, he is unable to get VISA to Poland and hence, his future prospectus is getting jeopardise.

5. Considering the above submission, the petitioner to appear before the first respondent/Superintendent of Police, Virudhunagar District, who shall conduct enquiry with the petitioner and verify the document of the petitioner about his credential to get employment and his requirement to travel Poland or any other country. Thereafter, ensuring the petitioner's presence during trial before the trial Court can issue No Objection Certificate and send report to the Regional Passport Authority /second respondent, who thereafter, can issue the Police Clearance Certificate. The entire exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order.

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

28.01.2025

NCC : Yes / No
Index : Yes / No
Rmk



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 - 2.The Inspector of Police,
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Virudhunagar District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

Rmk

Order made in
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