

W.P.(MD)No.15991 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.15991 of 2024

Kalaivanan

... Petitioner

Vs.

1.The Regional Passport Officer,
New Municipal Complex,
Thillai Nagar 7th Cross,
Tiruchirappalli – 620018.

2.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 18.03.2024, passed by the first respondent and quash the same and consequently direct the first respondent to issue Police Clearance Certificate and travel document to the petitioner's Police Clearance Certificate application no.TR1086853357324.

For Petitioner	: Mr.G.Karnan
For Respondents 1 & 2	: Mr.K.Maharajan Central Government Standing Counsel
For 3 rd Respondent	: Mr.K.Gnanasekaran Government Advocate (Crl)



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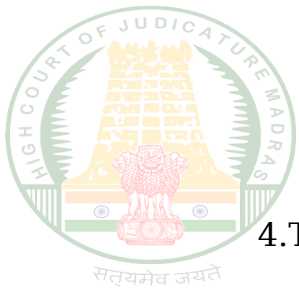
ORDER

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Challenging the impugned order of the first respondent dated 18.03.2024, requiring proof of clearance of criminal case pending as against the petitioner on processing the application form for grant of Police Clearance Certificate and travel document to the petitioner's Police Clearance Certificate Application No. TR-1086853357324, this Writ Petition is filed.

2.Heard the learned counsel on either side and carefully perused the entire materials available on record.

3.The petitioner is a holder of passport bearing No.X6982965 issued as on 21.03.2023, which is valid till 20.03.2033. On receipt of his passport, he applied visa/employment visa/work permit on 29.01.2024, to go abroad for the purpose of getting an employment at Kuwait. In this regard, the petitioner made an application for Police Clearance Certificate to the first respondent in PCC Application No.TR-1086853357324. However, citing pendency of a criminal case as against him, the said application came to be rejected by the first respondent, requiring to clarify him as to the pending criminal case as against him. Challenging the same, this Writ Petition is filed.



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4.The learned counsel appearing for the petitioner submitted that the petitioner was arrayed as accused No.4 in a Criminal case in S.S.C.No.51 of 2018 on the file of the learned first Additional District and Sessions Judge (PCR), Thanjavur, for the offences under Sections 148, 149, 294(b), 307, 326 and 341 of the Indian Penal Code r/w. Section 3(1) (x) of SC/ST Act. After an elaborate trial, the learned first Additional District and Sessions Judge (PCR), Thanjavur, acquitted all the accused in the aforesaid case including the petitioner by judgment dated 09.01.2023. Apart from the aforesaid case, no other criminal case is pending as against the petitioner in any Court. In the meanwhile, the complainant in the said case, preferred an appeal against acquittal before this Court in Crl.A.(MD)No.647 of 2023, in which the petitioner is shown as fifth respondent and the same is pending. The first respondent on receiving a police clearance certificate from the second respondent, as if the aforesaid criminal appeal is pending as against him has rejected the petitioner's application by proceeding stated 18.03.2024, requiring to clarify the said issue. Citing the fact that the petitioner has already been acquitted in S.S.C.No.51 of 2018, the learned counsel for the petitioner pressed for setting aside the impugned order and thereafter, direct the first respondent to issue a police clearance certificate.

5.The case of the petitioner is that mere pending of an appeal against acquittal before this Court will not absolve the petitioner's right



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to travel abroad and the same is his fundamental right. The criminal case, which is pending as against the petitioner is a Criminal Appeal before this Court, that is, the High Court of Madras as against the acquittal in S.S.C.No.51 of 2008 on the file of the learned first Additional District and Sessions Judge (PCR), Thanjavur. The cry of the petitioner is that mere pendency of a criminal appeal as against the judgment of acquittal do not have the effect of suspending the operation of the judgment of acquittal passed by the learned Trial Court.

6. My endeavor is to consider as to the issue of whether the Appeal filed against the acquittal order would have to be treated as continuation of criminal proceedings for the purpose of issuance of police clearance certificate under the Passports Act, 1967. Section 6 of the Passport Act, 1967, provides for refusal of passports, travel documents etc., on certain grounds and the ground propounded in Section 6(f) is that when a proceeding in respect of an offense alleged to have been committed by the applicant is pending before a criminal Court in India in that case the Passport Authority shall refuse to issue passport or travel document etc., for visiting any foreign Country. The travel document, which is required by the petitioner in this case is a police clearance certificate facilitating him to obtain a visa for working abroad. Section 6(f) of the Passport Act, 1967, makes it clear that the pendency of any criminal case in respect of an offense alleged to have been committed by the holder of the passport



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or travel document in any criminal Court in India would proscribe his right in obtaining a travel document. Chapter 2 of the Bharatiya Nagarik Suraksha Sanhita, 2023, deals with the constitution of criminal Courts and offices. Section 6 of the Bharatiya Nagarik Suraksha Sanhita, 2023, deals with the classes of criminal Courts and the same is extracted as follows:-

“Section 6 - Classes of Criminal Court - Besides the High Courts and the Courts constituted under any law, other than this Sanhita, there shall be, in every State, the following classes of Criminal Courts, namely:—

- (i) Courts of Session;*
- (ii) Judicial Magistrates of the first class;*
- (iii) Judicial Magistrates of the second class; and*
- (iv) Executive Magistrates.”*

7.As propounded by Section 6 of the Bharatiya Nagarik Suraksha Sanhita, 2023, it has become clear that apart from the Courts constituted under Section 6 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the High Courts are also criminal Courts. In view of the same, I do not find any demerit on the part of the second respondent for refusing to issue a police clearance certificate pointing out the pendency of CrI.A.(MD)No. 647 of 2023 and the first respondent's rejection as to the petitioner's application seeking police clearance certificate. It is pertinent to point out here that an Appeal filed against acquittal order would certainly be treated as continuation of criminal proceedings for the purpose of issuing



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police clearance certificate.

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8. Accordingly, the petitioner's request for police clearance certificate fails and the Writ Petition is dismissed. There shall be no order as to costs.

27.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

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L.VICTORIA GOWRI, J.

Mrn

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