

W.P(MD)No.20936 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)No.20936 of 2025

and

W.M.P(MD)No.16206 of 2025

Jayanthi

... Petitioner

Vs.

- 1.The Consular,
Embassy of India,
B-1 Diplomatic Quarter,
P.B.No. 9837, Riyadh,
Saudi Arabia.
- 2.The Regional Passport Officer,
The Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625002.
- 3.The Superintendent of Police,
O/o. the Superintendent of Police,
Nagercoil,
Kanniyakumari District.
- 4.The Inspector of Police,
Kollencode Police Station,
Kanniyakumari District.
(In Crime No. 186 of 2022)

...Respondents



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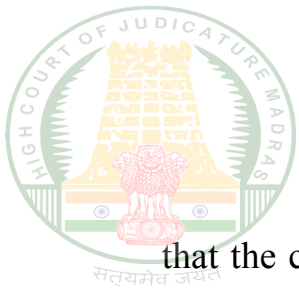
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Email communication dated 30.07.2024 sent by the first respondent and quash the same as illegal, consequently directing the first respondent to reissue passport to the petitioner's husband namely Kumar Ayyappan forthwith based on his Passport Application Reference No.24-2003375570.

For Petitioner : Mr.A.Abdulkabur
For R2 : Mr.R.Ganesh Kumar
Central Government Standing Counsel
For R3 : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

ORDER

This writ petition has been filed by the petitioner expousing a cause of her husband Kumar, who is actually a accused person in FIR registered by the fourth respondent in Crime No.186 of 2022 on 11.06.2022 under Section 143, 290 of the IPC.

2.The learned Government Advocate for the respondents 3 and 4 submits that a charge sheet has been filed the Judicial Magistrate, Kuzhithurai, Kanyakumari District in S.T.C.No.1965 of 2022. It is informed



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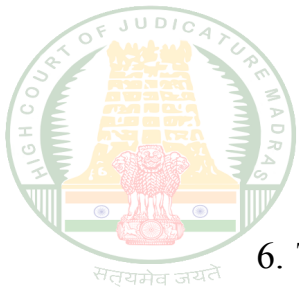
that the case is listed on 13.08.2025 for issuance of summons to the accused persons.

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3. The facts on record indicates that the petitioner's husband was issued a passport bearing No.L4156411 on 09.10.2013, which was valid up to 08.10.2023. The passport was not renewed in time, as it was retained by the petitioner's husband's employer in the Saudi Arabia.

4. The learned counsel for the petitioner submits that an application for issuance/renewal of the passport was filed before the first respondent, which has however been rejected on the ground that the petitioner is involved in a criminal case registered in Crime No.186/2022 under the aforesaid provision before the fourth respondent, in respect of which a charge sheet has been filed and case has been taken on file in S.T.C.No.1965/2022.

5. Although the Section 6(2)(f) of the Indian Passports Act, 1967, prohibits the issuance of a passport, the Court has taken a contra view in the case of *The Regional Passport Officer, Chennai Vs. Samsudeen Mohamed Salih and another* (W.A.No.902 of 2023, dated 02.06.2023) and has directed the issuance of a passport under similar circumstances.



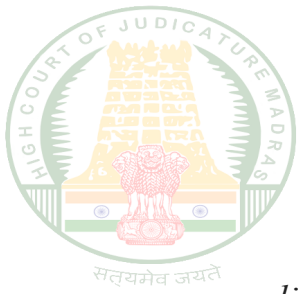
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6. To balance the interest of law enforcing authority and the applicant, who are accused persons, Government of India, Ministry of External Affairs, PSP Division has issued an Office Memorandum, dated 10.10.2019, wherein, the following stipulations have been given for renewal/issuance of the passport.

“ 5. In view of the above, the following instructions may be adopted while processing the passport applications in respect of those applicants who may have criminal proceedings pending before a criminal court in India:

(i) The provisions of GSR 570(E) may be strictly applied in all cases. GSR 570(E) is a statutory notification and hence forms part of the Rules. It is to be noted that as per Section 5(2) of the Passports Act, 1967, the passport authority shall by order in writing take a decision whether to issue or refuse a passport, after making such inquiry, if any, as it may consider necessary. Moreover, Section 7 of the Passports Act, provides that a passport or travel document may be issued for a shorter period than the prescribed period if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period. Rule 12 of the Passport Rules, 1980 only states that an ordinary passport shall be in force for a period of 10 years which implies that an ordinary passport cannot be issued beyond a period of 10 years.

(ii) Whenever an applicant is submitting a 'No Objection Certificate' (NOC) from a Court of law in India, the applicant should be advised that undertaking as per GSR 570(E) should be complete in all respects and should mention all the pending criminal cases against the applicant. The undertaking will have a note clearly stating that if any false or incomplete information is submitted by an applicant, then his passport application is liable to be rejected.



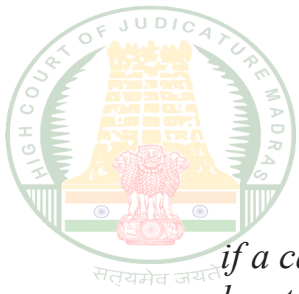
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(iii) Extant instructions clearly lay down that such applications should be processed on pre-Police Verification (PV) mode. "Pre-PV" would be mandatory in all cases of applications submitted with GSR 570(E) to ensure that the undertaking submitted by the applicant is properly matched with the criminal cases mentioned in the Police Verification Report (PVR). Hence, such applications should not be accepted under Tatkaal nor such applications be moved to "post-PV" mode or "No-PV" mode without proper justification and approval to be recorded in writing.

(iv) If an undertaking is incomplete or misleading and the applicant is found to have suppressed details of other criminal cases against the applicant, a Show Cause Notice should be issued to the applicant and action initiated against that applicant as per provisions of Section 12 of the Passports Act, 1967. If information that an applicant has obtained a passport by making a false submission or by suppressing material facts comes to light after the passport has been issued, the passport may be impounded or revoked as per provision of Section 10(3) (b) of the Passports Act, 1967, after following the due procedure.

(v) In case where the first Police Verification(PV) is 'Adverse', secondary police verification may be generated. While a secondary PV is generated, it should be accompanied by a detailed letter seeking clarification regarding the pending criminal cases against the applicant and the status of these cases. Apart from generating secondary PVR, the passport officers may, if considered necessary, call for discreet enquiry through the police authorities by sending the court order submitted by the applicant or even seek verification from other government agencies/departments, as the case may be.

(vi) In case where the secondary Police Verification is also 'Adverse', it may be examined whether the details brought out in the police report match the undertaking submitted by the applicant. It may be noted that mere filing of FIRs and cases under investigation do not come under the purview of Section 6(2)(f) and that criminal proceedings would only be considered pending against an applicant



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if a case has been registered before any Court of law and the court has taken cognizance of the same.

(vii) If the details given in the police report and the undertaking submitted by the applicant are matching, then the 'No Objection Certificate' issued by a Court of law submitted by the applicant would take precedence over any 'Adverse' report submitted by the police. In such cases, the 'Adverse' report may be overruled with the written approval of the Passport Officer.

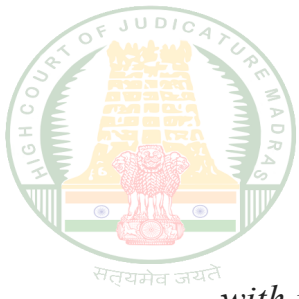
(viii) If the details given in the PVR and the undertaking submitted by the applicant are at variance, then a notice may be issued to the applicant calling for clarification and advising the applicant to submit details of all pending criminal cases as well as to submit a revised No Objection Certificate (NOC).

(ix) If it is brought to the notice of the authority that an applicant has criminal proceedings arrayed against applicant before several courts of law, then the applicant may be advised to get NOC from all the concerned court(s). Normally, the Court Order would make a mention of the cases pending against the applicant as well as the prayer made by the applicant. This may be examined along with the undertaking submitted by the applicant and complaints or other court orders, if any, that may have been received against the applicant.

(x) It may noted that GSR 570(E) only exempts an applicant from the operation of Section 6(2)(f) and none of the other sub-sections of Section 6(2) of the Passports Act, 1967.

(xi) A revised Undertaking under GSR 570(E) is attached at Annexure A'.

(xii) Passport Officers may issue an internal SOP along the above lines so that there is no confusion in handling of applications that would attract provisions of section 6(2)(f) of the Passports Act, 1967.



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6. *The above instructions may be noted for strict compliance with immediate effect."*

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7. Considering the fact that the passport application has already been closed vide communication dated 30.07.2024, liberty is granted to the petitioner's husband, Kumar to file a fresh application before the first respondent. The first respondent shall process the same and issue passport to the petitioner, as the petitioner's husband is still employed in Saudi Arabia.

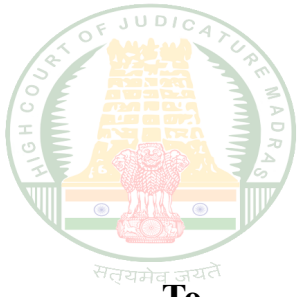
8. It is however made clear that the petitioner shall appear before the Trial Court at the stage when the trial commences in S.T.C.No.1965/2022, as and when the petitioner required to appear for deposing the evidence and on the date when the judgment is pronounced in the said case.

9. The writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

31.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
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C.SARAVANAN, J.

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