



W.P.No.12515 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.05.2022

CORAM :

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P.No.12515 of 2022

Mr.Shaik Abdullah

...Petitioner

Vs.

- 1.The Union of India,
Represented by the Principal Secretary,
Ministry of External affairs,
Union of India, E Block,
Central Secretariat,
New Delhi.
- 2.The Union of India,
Represented by the Principal Secretary,
Ministry of Overseas Indian Affairs,
Jaisalmer House,
Mansingh Road,
New Delhi.
- 3.The High Commission of India,
Wisma, Hrih Lotus,
Level 1, 442, Jalan Pahang,
Setapak-53000,
Kuala Lumpur
Malaysia.
- 4.BLS International Services,
India Passport and Others Consular Services,
No. 7 & 9 Ground Floor,
Medan Tuanku Satu,
50300 Kuala Lumpur.



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5.The Regional Passport Office,
O/o. Regional Passport Office,
Municipal Water Tank Building,
Tiruchirappalli 620 008.
Tamil Nadu

6.The Inspector of Police
Vedaranyam Police Station,
Nagapattinam.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent No.5 to reissue the passport of the petitioner in Application Reference No.21-2003341220 dated 28.09.2021.

For Petitioner : Mr.M.Sricharan Rangarajan
For Mr.Mohamed Ashick

For respondents: : Mr.K.Subbu Ranga Bharathi
Central Government Standing Counsel
for RR-1, 2, 3 and 5

Mr.C.Jayaprakash
Government Advocate for R-6

ORDER

Writ Petition is filed praying for issuance of a Writ of Mandamus, to direct the respondent No.5 to re-issue the Passport of the petitioner in Application Reference No.21-2003341220 dated 28.09.2021.



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2. Heard either side.

3. The writ petitioner is an Indian Citizen. He is presently carrying on business in Malaysia. It is alleged that the petitioner was involved in a few Criminal Cases in the year 2017 and 2018 when he was in India. It is true that while one case is pending in F.I.R Stage, the other two are in CC Stage.

4. The petitioner's Passport is valid up to 07.07.2023. He had lost his Passport and he has also given a complaint before the local Police at Malaysia. Thereafter, the petitioner approached the Indian Embassy at Malaysia for re-issuance of the Passport. The Indian Embassy declined to do so by citing the involvement of the petitioner in the aforesaid Criminal Cases.

5. It is well settled that the pendency of the Criminal Case at the FIR stage, is not a bar for issuance of the Passport. It is true that if it has culminated in filing of the final report, permission of the Court for issuance of Passport will have to be obtained, but this requirement is



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applicable only if the petitioner wants to leave India. It cannot apply when

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the petitioner wants to come back to India. The learned counsel for the petitioner submitted that in similar circumstances, a learned Judge of this Court, in the case of *Rahul Ravindran Vs. Union of India and others*, reported in *2021 (4) MLJ 289 = MANU/TN/4595/2021*, had taken favourable view and disposed of the writ petition on certain directions. I am of the view that this writ petition can also be disposed of with similar directions.

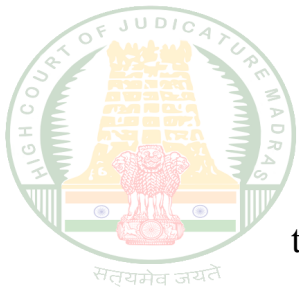
6. Accordingly, this Writ Petition stands disposed of with the following directions:

(a) The petitioner is directed to submit a representation to the Indian Embassy at Malaysia enclosing a certified/web-copy of this order made in this writ petition;

(b) Immediately on receipt of such representation, the Passport of the petitioner shall be re-issued/renewed for a period two years;

(c) On such re-issuance/renewal, the petitioner shall come over to India and take immediate steps to participate in the Criminal proceedings and work out his remedy and defend himself in the case;

(d) The petitioner shall also file a memo before the concerned Court, where the Criminal case is pending and bring



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to the notice of the said Court, the orders passed in this writ petition; and

(e) If in case the criminal case does not come to an end within the period for which the Passport has been re-issued/renewed, the petitioner shall get the necessary permission only from the concerned Court in line with the notification issued by the Government of India through the Ministry of External Affairs in G.S.R.298(E) dated 14.04.1976

7. However, there shall be no orders as to costs.

12.05.2022

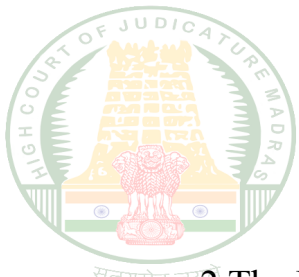
Jeni/cs

Index : Yes/no

Speaking order : Yes / No

To

1. The Principal Secretary,
The Union of India,
Ministry of External affairs,
Union of India, E Block,
Central Secretariat,
New Delhi.



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