

(2015) 09 MAD CK 0235

In the Madras High Court

Case No : Writ Petition (MD) No. 15999 of 2015

B. Ramu

APPELLANT

Vs

The Regional Passport Officer, Passport Office and Others

RESPONDENT

Date of Decision : 03-09-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 447

Citation : (2015) 09 MAD CK 0235

Hon'ble Judges : R. Subbiah, J

Bench : Single Bench

Advocate : G. Thalaimutharasu, for the Appellant; S. Jeya Singh, Advocates for the Respondent

Final Decision : Disposed off

Judgement

R. Subbiah, J—This writ petition has been filed for issuance of a mandamus directing the respondents 2 and 3 to issue Police Clearance Certificate to the petitioner Passport bearing No. M8221509 so as to enable him to take treatment for his kidney failure at Western Infirmary (Pvt) Ltd. Lanka Medicare Renal Unit in Sri Lanka by considering his representation dated 14.08.2015.

2. Mr.S.Jeya Singh, learned Central Government Standing Counsel takes notice for the first respondent and Mr.D.Muruganandham, learned Additional Government Pleader takes notice for the respondents 2 and 3 and by consent of both parties, the writ petition is taken up for final disposal, at the stage of admission itself.

3. The learned counsel for the petitioner would submit that the petitioner is the permanent resident of Haribaskar Colony, Kallipatti, Malaipatti, Ramji Nagar Post, Tiiruchirappalli. In the year 2003, the petitioner was implicated in Crime No. 191 of 2003, dated 31.03.2003 for the offences under Sections 147, 148, 447, 307 of IPC r/w. 3(1) of TNPPDL Act by the third respondent. After conducting investigation, the third respondent laid charge sheet for the offences under

Sections 147, 148, 447, 307 of IPC r/w. 3(1) of TNPPDL Act and 149 of IPC before the learned Judicial Magistrate No. 1, Tiruchirappalli in P.R.C. No. 38 of 2004. The case was charge sheeted on 07.07.2003 before the learned Judicial Magistrate No. 1, Trichy and it was subsequently transferred to the learned Judicial Magistrate No. V, Trichy and the same is still pending for more than 11 years without any progress. The delay in concluding the case is only on the part of the prosecution and not on the part of the petitioner. In such circumstances, the petitioner is suffering from End Stage Renal Disease and undergoing dialysis periodically by taking treatment at Kavery Hospital, Trichy and his Doctor advised him for renal transplantation at the earliest. In this regard, the petitioner was informed that the hospital viz., Western Infirmary (Pvt.) Ltd., Lanka Medicare Renal Unit, 218, Cotta Road, Colombo - 08, Sri Lanka is giving best treatment for kidney related diseases and it is one of the best hospitals in South Asia for kidney transplantation. Therefore, the petitioner decided to take treatment in the above said hospital and hence, he applied for Visa before the Immigration and Emigration Department, Sri Lanka and after considering his genuine request, they have issued Visa for a period of 30 days and the same has to be utilized on or before 21.12.2015. Therefore, the petitioner by narrating all the above said facts, made a representation to the respondents 2 and 3 on 14.08.2015 along with necessary documents to issue Police Clearance Certificate to travel abroad so as to enable him to take treatment in Western Infirmary (Pvt.) Ltd., Lanka Medicare Renal Unit in Sri Lanka. But, the respondents 2 and 3 have not yet passed any orders on the representation made by the petitioner. Due to delay in considering his request for issuance of clearance certificate, the purpose of getting visa to travel abroad is of no use. Therefore, the petitioner has come forward with this Writ Petition.

4. In support of his contention, the learned counsel appearing for the petitioner would rely upon a decision of the Gujarat High Court in Vaishaliben Vs State wherein at paragraphs 8 and 9 it has been observed as follows:

8. In exercise of powers under Article 226 and 227 of the Constitution of India, a writ court is duty bound to protect fundamental rights of the citizen and denial of issuance of police clearance certificate in absence of anything against the petitioner will be a negation of fundamental rights available to the petitioner in part-III of the Constitution of India. When the petitioner who is already enlarged on bail by the competent court of law and after the order of bail, no such case is noticed by the authority or the court of any breach of conditions of bail and willingness is shown by the petitioner to furnish an undertaking in the terms and conditions that may be imposed by this Court I hereby direct the District Superintendent of Police, Anand, to issue police clearance certificate to the petitioner subject to verification about antecedents of the petitioner other than the case pending in the Court pursuant to the C.R. No. 1-64 of 2009.

9. The petitioner is directed to file an undertaking before the concerned court and the police authority about disclosing of her itinerary and whereabouts and

further that as and when her presence is necessary for attending the trial she may be return to this country.

5. Following the above dictum and considering the facts and circumstances of the case on hand, I am of the opinion that it would appropriate to direct the respondents 2 and 3 to consider the petitioner's representation dated 14.08.2015. Accordingly, this Court directs the respondents 2 and 3 to consider the petitioner's representation dated 14.08.2015 and pass appropriate orders within a period of two 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.