

(2023) 03 TEL CK 0058
In the Telangana High Court
Case No : Writ Petition No. 8009 Of 2023

Samala Madhava Reddy

APPELLANT

Vs

Union Of India And 1 Other

RESPONDENT

Date of Decision : 23-03-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 323, 354B, 420, 427, 428, 468, 471, 477A, 506, 509

Prevention of Corruption Act, 1988 — Section 13(1), 13(2)

Citation : (2023) 03 TEL CK 0058

Hon'ble Judges : K. Lakshman, J

Bench : Single Bench

Advocate : G. Raghupathi Reddy, Gadi Praveen Kumar, Thakur Roopa Singh

Final Decision : Disposed Of

Judgement

Heard Sri G. Raghupathi Reddy, learned counsel for the petitioner, Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India appearing for respondent No.1 and Smt. Thakur Roopa Singh, learned counsel appearing for respondent No.2. Perused the record.

Perusal of the record would reveal that the petitioner herein is an accused in Crime No.471 of 2019 of Bowenpally Police Station, Hyderabad District registered for the offences punishable under Sections – 448, 427, 323, 354(B), 506, 509 R/w 34 of IPC, and after completion of investigation, the Investigating Officer had filed charge sheet. The same was taken on file vide C.C.No.770 of 2019. It is pending on the file XIX Additional Chief Metropolitan Magistrate, at Secunderabad.

The petitioner herein is holder of Passport bearing No.K5543297 and the same was expired on 07-01-2023. He is a Businessman by profession. He had submitted an application for renewal of the said passport, vide application No.HY1074561766322, dated 06-09-2002 by paying requisite fee. The respondents herein are not renewing his passport on the ground of pendency of

the aforesaid criminal case.

The petitioner herein is arraigned as accused No.2 in the aforesaid crime. Now, he contends that he was falsely implicated in the aforesaid crime. Further, he is also ready to co-operate with the trial. Therefore, he sought to issue necessary directions to the respondents for consideration of his application for renewal of his passport.

Respondent No.2 cannot deny renewal of Passport on the ground that aforesaid Criminal Case is pending against him. It is also relevant to note that the Apex Court in *Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation* 2020 CrL.J. (SC) 572 had an occasion to examine the provisions of the Passports Act, pendency of criminal cases and held that refusal of a passport can be only in case where an applicant is convicted during the period of five (05) years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years. Section 6.2 (f) relates to a situation where the applicant is facing trial in a criminal Court. The petitioner therein was convicted in a case for the offences under Sections - 420, 468, 471 and 477A read with 120B of the IPC and also Section - 13 (2) read with Section 13 (1) of the Prevention of Corruption Act, 1988. Against which, an appeal was filed and the same was dismissed. The sentence was reduced to a period of one (01) year. The petitioner therein had approached the Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Apex Court held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Apex Court directed the Passport Authority to renew the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal case.

As discussed above, the aforesaid criminal case is pending against the petitioner herein. The passport of the petitioner is valid up to 07-01-2023. He had submitted an application on 06-09-2022 for renewal of his passport. Respondent No.2 is not considering the application for renewal on the ground of pendency of the aforesaid criminal case. On the ground of pendency of the proceedings in criminal cases, respondent No.2 cannot deny renewal of passport of the petitioner herein. There is no provision in the Passports Act or Rules/ Regulations that passport cannot be granted on the ground of pendency of criminal cases. Further, the petitioner herein is standing on better footing than the petitioner in *Vangala Kasturi Rangacharyulu*¹. In view of the same, respondent No.2 cannot deny or refuse to renew the passport of the petitioner. However, if the petitioner is intending to travel abroad, he has to approach trial Court in the aforesaid criminal case and obtain permission for travelling abroad. In the present writ petition, the petitioner is not seeking permission to travel abroad, and he is seeking only renewal of his passport.

In view of the aforesaid discussion, this writ petition is disposed of directing the respondent No.2 herein to consider the application No.HY1074561766322, dated 06-09-2002 submitted by the petitioner seeking renewal of his passport on the

following conditions:-

- i) The petitioner herein shall submit an undertaking along with an affidavit in C.C.No.770 of 2019, pending on the file XIX Additional Chief Metropolitan Magistrate, at Secunderabad, stating that he shall not leave India during pendency of the said C.C. without permission of the Court and that he shall co-operate with trial Court in concluding the proceedings in the said C.C.
- ii) On filing such an undertaking as well as affidavit, the trial Court shall issue a certified copy of the same within two (02) weeks therefrom;
- iii) The petitioner herein shall submit an application afresh along with certified copy of this order as well as the aforesaid undertaking before the Passport Officer/ Authority concerned for renewal of his passport;
- iv) On filing such an application, the Passport Officer/Authority shall consider the same afresh in the light of the observations made by this Court herein as well as the contents of the undertaking given by the petitioner for renewal of his passport in accordance with law, within three (03) weeks from the date of said application;
- v) On renewal of the Passport, the petitioner herein shall deposit the original renewed passport before the trial Court in C.C.No.770 of 2019; and
- vi) However, liberty is granted to the petitioner herein to file an application before the learned Magistrate seeking permission to travel abroad, and it is for the learned Magistrate to consider the same in accordance with law.

However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.