

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**W.P.No. 1718 of 2023**

Between:

D.Marreddy

... Petitioner

And

The Union of India and others

... Respondents

JUDGMENT PRONOUNCED ON: 16.08.2023

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

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... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner : Mr Venugopal Julakanti

^ Standing Counsel for Respondents 1&3: Central Govt.

^ Counsel for respondent No.2 : Mr K.Arvind Kumar

^ Counsel for respondents 4 & 5 : G.P. for Home

^ Counsel for respondents 6 & 7 : Mr B.Ravindra

? Cases Referred:

2008(3) SCC 674

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P.No. 1718 of 2023****ORDER:**

Heard the learned counsel for the Petitioner, learned Central Government counsel appearing for the 1<sup>st</sup> and 3<sup>rd</sup> respondents, learned standing counsel appearing on behalf of the 2<sup>nd</sup> respondent, learned Government Pleader for Home appearing for the 4<sup>th</sup> and 5<sup>th</sup> respondents, and also the learned counsel appearing on behalf of the 6<sup>th</sup> and 7<sup>th</sup> respondents.

2. This writ petition is filed to issue a writ, order, orders or direction more particularly in the nature of Mandamus, declaring the action of respondent Nos.2 and 3 as arbitrary and illegal and direct respondent Nos.2 and 3 to impound the passports of respondent Nos.6 and 7 vide passport No.K079406 and Z2887031.

**3. The case of the Petitioner, in brief, is as follows:**

a) The Petitioner's daughter Anusha Reddy got married with the 6<sup>th</sup> respondent on 30.12.2011 as per Rights and Customs prevailing in Christian Community. At the time of

marriage, as per demand of respondent Nos.6 and 7 and their parents, the petitioner gave 100 tolas of gold and diamond Jewellery, registered Ac.17.00 of land at Sadasivapet, Medak District and 666 Syds of open plot at Hi-Tech city, Madhapur.

b) After the marriage, respondent Nos.6 and 7 and their parents demanded for additional dowry and necked out the petitioner's daughter from their house. On 24.03.2016 the petitioner's daughter filed a complaint and the same was registered as Crime No. 208/2016 on 28.03.2016, which was immediately taken up for investigation.

c) After thorough investigation, a charge sheet was filed before the XIII Additional Chief Metropolitan Magistrate, Hyderabad against respondent Nos.6 & 7 and their parents. However, upon registering the crime, respondent Nos.6 & 7 neither obtained bail nor appeared before the Investigation Officer. During the course of investigation, notices u/s 41(A) Cr. P.C. were issued, but respondent Nos.6 & 7 failed to appear before the Investigation Officer. Hence, absconding charge sheet was filed. Subsequently, vide C.C.No. 378/2016 was registered and warrants were issued.

d) The 6<sup>th</sup> respondent is having passport vide No. K0709406 issued by Consulate General of India, San Francisco on 16.08.2011 and the same was valid up to 15.08.2021, and the 7<sup>th</sup> respondent is having passport vide no.Z2887031 issued by Passport Officer.

e) Upon issuing the non-bailable warrant against respondent Nos. 6&7 in C.C. No. 378/2016, the Investigation Officer wrote a letter to the 2<sup>nd</sup> respondent on 29.08.2016 requesting him to impound the passport of respondent Nos.6 & 7. Subsequently, on 20.09.2016 a letter was sent by the 2<sup>nd</sup> respondent to Investigation Officer, WPS, CCS stating that they have sent show cause notice to respondent no.6 & 7 and also informed that they sent a letter to Consulate General of India, USA for necessary action.

f) Later on, the 6<sup>th</sup> respondent filed a divorce application against the petitioner's daughter vide FCOP No. 79/2016 and in the said application the father of 6<sup>th</sup> respondent had represented before the Hon'ble court. Since the 6<sup>th</sup> respondent never appeared before the Family Court, the said divorce application was dismissed.

g) Meanwhile, the 6<sup>th</sup> respondent filed an application for evidence through video conference and the same was dismissed. Aggrieved by the same, the 6<sup>th</sup> respondent filed revision before this court vide CRP No.738/2019 and the same was dismissed.

h) Respondent Nos. 6 & 7 are well aware that the proceedings in C.C. 378/2016 are pending for adjudication, but they failed to appear before the court. This shows that the Respondent Nos. 6 & 7 are avoiding the proceedings on purpose. Thus, several requests were made to the 2<sup>nd</sup> Respondents to initiate action against the respondent nos. 6 and 7 by impounding their passport. However, no action has been taken till date. Hence this Writ Petition.

**4. The counter affidavit filed on behalf of respondents 6 and 7, reads as under:**

a) The petitioner herein is neither the de-facto complainant nor the prosecutor of the criminal case in question i.e., in C.C. No. 378 of 2016 but he is merely a witness cited as LW2 in the case. He has nothing to do with the process of the prosecution of the case and thus he has no

locus standi to file the present writ petition questioning the actions or inactions of the Passport authorities

b) The 6<sup>th</sup> respondent and the petitioner's daughter got married in the year 2011 and taking advantage of the naiveness and docile nature of 6<sup>th</sup> respondent, the petitioner and his daughter made the 6<sup>th</sup> respondent part with his hard-earned money to the tune of more than 1 crore rupees on the pretext of purchasing of lands and house sites by the petitioner for the 6<sup>th</sup> respondent. However, the petitioner has never purchased a single piece of property, which ultimately led to filing of the civil suit by the 6<sup>th</sup> Respondent through his father under power of attorney for recovery of the said money and the same was forwarded for out of court settlement.

c) The allegation that the petitioner has given "100 Tulas of gold" and Acres 17.00 of land as dowry to the 6<sup>th</sup> Respondent is absolutely false. Neither the respondent nos. 6 & 7 nor their parents ever demanded any dowry or additional dowry, nor necked out the petitioner's daughter from the home. On 24.03.2016, where crime was registered as per the petitioner, the respondent nos. 6 and 7 were in USA while the petitioner's daughter was in India.

d) The petitioner has already moved a petition through P.P vide CRL. M.P. No. 3586 of 2022 in C.C. No. 378 of 2016 before the trial court seeking to impound the passports of respondents 6 & 7 herein, and the same is pending. This fact is deliberately suppressed before this Court by the petitioner.

e) In response to the notice issued u/sec. 41A of Cr.P.C, the 6<sup>th</sup> respondent furnished the full details of the dispute that arose between his and the petitioner's daughter to the investigation officer through E-mail. Both the respondent nos. 5 & 6 have replied to the show-cause notices issued by the 2<sup>nd</sup> respondent and the same were also considered, and accordingly on satisfaction of the reply, all further proceedings were dropped.

f) The absence of Respondent nos. 6 & 7 before this court is neither intentional nor wantonly, but due to the unavoidable circumstances of not being able to get leave from their employers and also due to Covid Pandemic then prevailing. Hence, the Writ Petition is without merits and is liable to be dismissed.

**5. PERUSED THE RECORD**

**a) Relevant portion of the proceedings dated 29.08.2016 vide proceedings No.208/15/OW/DD/Hyd/2016 addressed to the Regional Passport Officer, Hyderabad City, Telangana State of the Station House Officer, Women Police Station, Detective Department, CCS, Hyderabad City, Telangana State, in particular, the last para reads as under:**

"Hence, it is requested the kind Regional Passport Officer, Hyderabad to impound the passport of A-1 T.Sundeeep Reddy to secure his presence for trial of this case in C.C.No.378 of 2016."

**b) Relevant portion of the proceedings dated 07.09.2016 vide proceedings No.208/15/OW/DD/Hyd /2016 of the Station House Officer, Women Police Station, Detective Department, CCS, Hyderabad City, Telangana State addressed to the Regional Passport Officer, Hyderabad City, Telangana State, in particular, the last para reads as under:**

"Hence, it is requested the kind Regional Passport Officer, Hyderabad to impound the passport of A-4 T.Praveena Reddy to secure his presence for trial of this case in C.C.No.378 of 2016."

**f) Proceedings No.30(579)Pol/2016, dated 20.09.2016 of the Regional Passport Officer, Hyderabad reads as under:**

“Please refer letter 208/15/OW/DD/Hyd /2016 dated 29.08.2016 and No. 208/15/OW/DD/Hyd/2016, dated 07.09.2016 on the subject cited.

Based on the letter furnished by you, show cause notices are issued to above said passport holders. Latest passports are issued by Consulate General of India, USA. We are forwarding the letters to the Consulate General of India, USA for further necessary action.”

**d) The written instructions of the Regional Passport Officer, Hyderabad, in particular, paras 2 to 11 read as under:**

“2. On verifying this office records, it is found that the respondent No. 6 Mr. Sundeepp Reddy Tirumalareddy is holding Passport bearing No. K0709406 date of Issue 16-08-2011 with validity upto 15-08-2021 by the Consulate General San Francisco, USA

3. On verifying this office records, it is found that the respondent No. 7 Ms. Praveen Reddy Tirumalareddy is holding Passport bearing No. 22887031 date of issue 17-07-2014 with validity upto 16-07-2024 by the Consulate General of India, San Francisco, USA.

4. This office received a letter from the Dy Commissioner of Police.. Detective Department Hyderabad vide C.No. 40/DCP-Camp/DD/HYD/2017 dated 28-04-2017 enclosed Non-Bailable warrant against the Respondent No. 6 pending before the Hon'ble XIII Addl. Chief Metropolitan Magistrate Nampally Hyderabad and copy of Look Out Circular vide No. 1/SIC(DMC)/LOC/2016-3540 dated 14-04-2016 and Warrant of arrest in Cr. No. 206/2016 in C.C. No. 378/2016 dated 30-03-2017.

5. This office has entered policy data vide 1700089 POL HYD as the Petitioner is involved in Cr. No. 208/2016 U/s 498-A, 420, 406, 506, 379 R/w 120(B) of IPC and Sec 4 and 6 of DP Act of WPS, CCS DD Hyderabad.

6. This office has sent a letter to the CGI San Francisco vide HYD/30/POL/PIC/579/2016 dated 04-07-2018 by enclosing FIR copy. Arrest warrant, LOC and to take action U/s 10(3) (e) of Passports Act, 1967.

7. The Passport No. K0709406 of respondent No. 7 has been expired and the Petitioner has not applied for re-issue.

8. This office sent a letter to the It Commissioner of Police Detective Department Hyd and Consulate General of India SAN FRANCISCO for further necessary action

9 The Respondent No. 6 is in San Francisco and the criminal case details sent to the CGI to take necessary action.

10. The Passport is not yet impounded but the Passport has been expired its validity on 15-08-2021.

11. The Respondent No. 6 has neither applied for re-issue or approached Consulate General of India at San Francisco.

**e) The counter affidavit filed on behalf of respondents 6 and 7, in particular, paras 7, 9 and 10 read as under:**

"7. It is also most relevant to submit that the petitioner has already moved a petition through P.P vide CRL. M.P. No. 3586 of 2022 in C.C. No. 378 of 2016 before the trial court seeking to impound the passports of me & my sister, respondent No. 7 herein, and the same is pending. This fact is deliberately suppressed before this Hon'ble court by the petitioner, which clearly tantamount abusing the process of this Hon'ble court.

9) I submit that, the allegations that 18 my sister respondent No. 7 herein never cooperated with the investigation officer and that we are absconding since long time and staying in Sunnyvale California and avoiding criminal proceedings of the Hon'ble trial court is false and baseless, in fact, in response to the notice issued under Sec. 41A of C.P.C.I furnished the full details of the dispute that arose between me and the de-facto complainant to the investigation officer through E-mail.

10. I submit that I am advised to state that, in terms of Sec.6 (f) and Sec.6 (g) of Indian Passport Act if any proceedings are pending in respect of offence alleged to have been committed by the holder of the passport and that if any warrant or summons for appearance of the accused has been issued by court under any law for the time being in force, the respondent no. 2 & 3 would consider in terms of the provisions and procedure envisaged under the passport Act. Such persons passports can be impounded or denied in terms of the procedure established by law and therefore the petitioner cannot directly approach this Hon'ble court seeking a direction to impound the passport of me and my sister respondent No. 7 herein. The fact of the matter remains that I and my sister herein already replied to the show cause notices got issued by the respondent no.2, Passport officer, the said show cause notices and the reply given by us are herewith filed for kind perusal of this Hon'ble court. It is significant to submit that the passport officer, having been satisfied with the reply submitted by us, was pleased to drop all further proceedings.

**f) The Apex Court in judgment dated 24.01.2008 reported in 2008 (3) SCC 674 in Suresh L.Nanda v CBI, in particular, at paras 11, 12 and 13 observed as under:**

"11. Learned Additional Solicitor General has submitted that the police has power to seize a passport in view of

Section 102(1) of the Cr.P.C. which states: [ Power of police officer to seize certain property:(1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

In our opinion, while the police may have the power to seize a passport under Section 102(1) Cr.P.C, it does not have the power to impound the same. Impounding of a passport can only be done by the passport authority under Section 10(3) of the Passports Act, 1967.

12. It may be mentioned that there is a difference between seizing of a document and impounding a document. A seizure is made at a particular moment when a person or authority takes into his possession some property which was earlier not in his possession. Thus, seizure is done at a particular moment of time. However, if after seizing of a property or document the said property or document is retained for some period of time, then such retention amounts to impounding of the property/or document. In the Law Lexicon by P. Ramanatha Aiyar (2nd Edition), the word [ impound[ has been defined to mean [ to take possession of a document or thing for being held in custody in accordance with law[ . Thus, the word [ impounding[ really means retention of possession of a good or a document which has been seized.

13. Hence, while the police may have power to seize a passport under Section 102 Cr.P.C. if it is permissible within the authority given under Section 102 of Cr.P.C., it does not have power to retain or impound the same, because that can only be done by the passport authority under Section 10(3) of the Passports Act. Hence, if the police seizes a passport (which it has power to do under Section 102 Cr.P.C.), thereafter the police must send it along with a letter to the passport authority clearly stating that the seized passport deserves to be impounded for one of the reasons mentioned in Section 10(3) of the Act. It is thereafter the passport authority to decide whether to impound the passport or not. Since impounding of a passport has civil consequences, the passport authority must give an opportunity of hearing to the person concerned before impounding his passport. It is well settled that any order which has civil consequences must be passed after giving opportunity of hearing to a party vide State of Orissa Vs. Binapani Dei [Air 1967 SC 1269]."

- g) Section 10(3) in the Passports Act, 1967, Clause (e) and (h) read as under:**

**Section 10(3) (e):**

(e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India;

**Section 10(3) (h):**

(h) if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made.

**DISCUSSION AND CONCLUSION****DISCUSSION**

6. A bare perusal of the contents of the show cause notice dated 08.05.2017 issued by the Passport Authority to the 6<sup>th</sup> respondent herein vide Reference No.30(148)POL/PIC/2017 and a bare perusal of the contents of the show cause notice dated 20.09.2016 issued by the office of the Passport Authority to the 7<sup>th</sup> respondent herein vide No.30(579)Pol/2016 referred to the details of the respective passports issued by the respondents 6 and 7 and also the details of the offences alleged against the respondents 6 and 7 and further that explanation had been called for from the

respondent 6 and 7 with a clear stipulation that if no explanation is received from the respondents 6 and 7 within the period stipulated in the said show cause notices issued necessary action will be initiated as contemplated under the provisions of the Passports Act, 1967. Strangely the two show cause notices do not refer specifically to impounding of Passports which is clearly mandated under Section 10 (3) (e) (h) of the Passports Act, 1967. It is therefore obligatory upon the passport authority to decide whether to impound the passport or not. Since impounding of the passport has civil consequences the passport authority must give an opportunity of hearing to the person concerned before impounding the passport. It is well settled that any order which has civil consequences must be passed after giving opportunity of hearing to the party.

**7. The Apex Court in judgment dated 24.01.2008 reported in 2008 (3) SCC 674 in Suresh L.Nanda v CBI at paras 11,12, and 13 (referred to and extracted above) very clearly observed that impounding of a passport can only be done by the passport authority under Section 10 (3) of the Passports Act, 1967.**

8. The plea of the respondents 6 and 7 that the passport authority is convinced with the explanation furnished by the respondents 6 and 7 in response to the show cause notices dated 08.05.2017 and 20.09.2016 issued to the respondents 6 and 7 by the passport authority and dropped all the proceedings against the respondents 6 and 7 is not tenable and the same is rejected in view of the fact that the passport authority i.e., the 2<sup>nd</sup> respondent herein is bound to impound the passports as provided for under Section 10 (3) (e) and (h) of the Passport Act, 1967, more particularly, in view of the letter received by the passport authority from the Deputy Commissioner of Police, Detective Department Hyderabad vide C.No.40/DCP-Camp/DD/HYD/2017 dated 28.04.2017 enclosing Non-Bailable warrant against the respondent No.6 pending before the Hon'ble XIII Additional Chief Metropolitan Magistrate Nampally, Hyderabad and copy of Look Out Circular vide No.1/SIC(DMC)/LOC/2016-3540 dated 14.04.2016 and Warrant of arrest in Cr.No.206/2016 in C.C.No.378 of 2016 dated 30.03.2017.

## **CONCLUSION**

9. Taking into consideration the above referred facts and circumstances of the case and the view taken by the Apex Court in the judgment dated 24.01.2008 reported in 2008 (3) SCC 674 in Suresh L.Nanda v CBI, in particular, at paras 11, 12 and 13, this Court opines that in view of the fact as borne on record that LOC had been initiated against the 6<sup>th</sup> respondent and after completion of investigation charge sheet has been filed against the 6<sup>th</sup> respondent and three others vide C.C.No.378 of 2016 and the trial Court even issued a Non-Bailable Warrant against the respondents 6 and 7 which had however not been executed as on today, the 2<sup>nd</sup> respondent herein is bound to initiate action as provided for under Section 10 (3) (e) and (h) of the Passports Act, 1967 forthwith and to initiate appropriate steps for impounding the passports of the respondents 6 and 7 vide Passport No.K0709406 and Z2887031 by following the procedure contemplated under law and inconformity with principles of natural justice. This Court further opines that the said exercise should be initiated and concluded within a period of

**four (04) weeks from the date of receipt of a copy of the order.**

10. With the above said observations, the writ petition is allowed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

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**SUREPALLI NANDA, J**

**Date: 16.08.2023**

**Note: L.R.Copy to be marked.  
b/o kvrm/yvkr**