

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**WRIT PETITION No.19533 of 2023****ORDER:**

This Writ Petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking the following relief:

“...to issue a Writ Direction, Order or Orders, more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in rejecting the application vide order dated 24.07.2023 for reissue the Petitioner's Passport No.N4979380 on the ground that CC No.173 of 2023 in Crime No.56/2023 u/s 498 A of IPC and 3 and 4 of Dowry Prohibition Act dated 20.03.2023 was registered on the file of S.H.O, Pathapatnam Police Station, Srikakulam District on the file of Honourable Principal Junior Civil Judge-cum-J.F.C.M Pathapatnam, Srikakulam District, Andhra Pradesh against the petitioner as illegal, arbitrary, contrary to the provisions of Passport Act, 1967 also law laid down in judgments of the Honourable Supreme Court and this Honourable High Court and consequently direct the respondents to reissue the petitioner's Passport (Old passport No.N4979380) forthwith, and to pass such other order or orders....”

2. Heard Ms.Jami Madhavi, learned counsel for the petitioner, Smt. Alekhya Reddy, learned Central Government counsel appearing for respondent No.1 and learned Assistant Government Pleader for Home appearing for respondent Nos.2 and 3

3. Learned counsel for the petitioner, in elaboration to what has been stated in the affidavit has contended that, the Passport authorities are not reissuing the Passport to the petitioner on the ground that Calendar Case No.173 of 2023 on the file of the Court

of Principal Junior Civil Judge-cum-Judicial First Class Magistrate, Pathapatnam, Srikakulam District is pending against him, which is contrary to the right guaranteed under Article 21 of the Constitution of India.

4. On the other hand, learned standing counsel for respondent No.1 submitted that, the petitioner cannot seek relief for issuance of passport from this Court under Article 226 of the Constitution of India and the remedy available to the petitioner is to approach the Concerned Court below, where the case is pending, and seek permission of the said Court for issuance/reissuance of Passport. Instead of doing so, the petitioner straight away filed the present Writ petition, as such, prayed to dismiss the Writ Petition.

5. Perused the record.

6. It is not in dispute that Crime No.56 of 2023 of Pathapatnam Police Station under Section 498-A of IPC and Sections 3 and 4 of the Dowry Prohibition Act was registered against the petitioner and the same was numbered as Calendar Case No.173 of 2023 on the file of the Court of Principal Junior Civil Judge-cum-Judicial First Class Magistrate, Pathapatnam, Srikakulam District.

7. In view of the facts and circumstances of the case and taking the submissions of both the learned counsel into consideration, without going into the merits of the case, instead of keeping this Writ Petition pending, this Court is inclined to dispose of the Writ Petition, with the consent of both the parties, at the admission stage itself, with the following direction.

The petitioner is at liberty to make an application before the concerned Court below, where the Calendar Case is pending, to obtain No Objection Certificate for issuance/reissuance of Passport. On such application, the Court below is directed to consider and pass appropriate orders in accordance with law at the earliest, not later than two (2) weeks from the date of filing of the application by the petitioner.

8. Accordingly, the Writ petition is disposed of. There shall be no order as to costs.

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

JUSTICE RAVI CHEEMALAPATI

Dated: 03.08.2023

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02.08.2023

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