



CONSTITUTIONAL LAW

CRIMINAL

IMMIGRATION LAW

Passport Denial Based on FIR Alone Impermissible, Rules Andhra Pradesh High Court

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Introduction

In an important decision concerning passport rights and the interpretation of Section 6(2)(f) of the Passports Act, 1967, the Andhra Pradesh High Court^[1] has clarified that the mere registration of a criminal case or the pendency of a police investigation cannot, by itself, justify the refusal of a passport. The Court held that the statutory embargo under the Passports Act is attracted only when criminal proceedings are pending before a competent criminal court, which necessarily requires the court to have taken cognizance of the alleged offence. Reaffirming the constitutional principles of presumption of innocence and personal liberty, the Court emphasized that an individual's right to travel abroad cannot be curtailed solely on the basis of unproven allegations. The ruling is a significant safeguard against arbitrary administrative action and provides much-needed clarity on the circumstances in which passport authorities may legitimately refuse or withhold the issuance of a passport.

Table of contents

- [Introduction](#)
- [Background of the Case](#)
- [Legal Issue](#)
- [Statutory Framework](#)
- [Court's Analysis](#)
- [Conclusion](#)

Background of the Case

The petitioner applied to the Regional Passport Office, Visakhapatnam, for the issuance of a fresh passport. During the course of the verification process, the passport authorities received an adverse police verification report indicating the petitioner's involvement in Crime No. 575 of 2025 registered at Patamata Police Station, NTR Commissionerate, Andhra Pradesh. On the basis of this report, the Regional Passport Office issued a shortfall notice dated 15 May 2026 seeking clarification from the petitioner regarding the pending criminal case.

Challenging the action of the passport authorities, the petitioner approached the Andhra Pradesh High Court under Article 226 of the Constitution. The petitioner contended that the mere registration of a criminal case and the pendency of an investigation could not constitute a valid ground for refusing or withholding the processing of a passport application under the Passports Act, 1967. It was further argued that no charge sheet had been filed before the competent court and that no criminal proceedings were pending before any court of law.

During the hearing, the State authorities confirmed that although the crime had been registered, the investigation had not culminated in the filing of a final report before the jurisdictional court. Consequently, no court had taken cognizance of the alleged offence. In these circumstances, the principal question before the High Court was whether an ongoing police investigation, without any cognizance being taken by a criminal court, could be treated as "proceedings pending before a criminal court" for the purposes of Section 6(2)(f) of the Passports Act, thereby enabling the passport authorities to refuse or defer issuance of a passport.

Legal Issue

The central issue before the Court was:

Whether the pendency of a criminal investigation, without the filing of a charge sheet or the taking of cognizance by a criminal court, constitutes "proceedings pending before a criminal court" under Section 6(2)(f) of the Passports Act, 1967, thereby justifying refusal of a passport.

Statutory Framework

The dispute before the Court centered on the interpretation of Section 6(2)(f) of the Passports Act, 1967, which empowers passport authorities to refuse the issuance of a passport where criminal proceedings are pending against an applicant. The provision mandates refusal only when "proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India."

The case therefore required the Court to examine the scope and meaning of the expression “pending before a criminal court.” While the passport authorities relied upon the adverse police verification report indicating the petitioner’s involvement in a criminal case, the petitioner contended that the statutory bar under Section 6(2)(f) would operate only when judicial proceedings had commenced before a competent court and not merely upon the registration of an FIR or during the stage of police investigation.

The interpretation of this provision assumes particular significance because it directly affects an individual’s ability to obtain a passport and exercise the right to travel abroad. Consequently, the Court was called upon to determine whether an ongoing investigation, in the absence of a charge sheet and without cognizance having been taken by a criminal court, could be treated as proceedings pending before a criminal court so as to justify refusal of a passport under the Act.

Court’s Analysis

The Court examined whether the pendency of a criminal case at the stage of investigation could be equated with “proceedings pending before a criminal court” under Section 6(2)(f) of the Passports Act, 1967. At the outset, it noted that while the petitioner was named in Crime No. 575 of 2025, the investigating agency had not filed a final report before the jurisdictional court. Consequently, no court had taken cognizance of the alleged offence.

In addressing this issue, the Court relied upon the Division Bench decision in W.A. No. 383 of 2024, which had authoritatively interpreted the scope of Section 6(2)(f). The Division Bench had held that criminal proceedings can be regarded as pending before a court only after the court takes cognizance of the offence and initiates judicial action in accordance with the provisions of the Code of Criminal Procedure. Mere registration of an FIR, filing of a charge sheet, or continuation of an investigation does not automatically result in proceedings being pending before a criminal court. The decisive factor is the court’s assumption of jurisdiction through the act of taking cognizance.

Applying the aforesaid principle, the Court observed that since no cognizance had been taken in the present case, there were no criminal proceedings pending before any court that could attract the statutory embargo contained in Section 6(2)(f) of the Passports Act. The adverse police verification report, therefore, could not be treated as a sufficient basis for refusing or withholding consideration of the petitioner’s passport application.

The Court further highlights the fundamental principle of criminal jurisprudence that every accused person is presumed innocent until proven guilty. Reliance was placed on the Supreme Court’s decision in *Sumit Mehta v. State of NCT of Delhi*^[2], wherein it was recognised that an accused person continues to enjoy the protection of fundamental rights, including the right to personal liberty, until guilt is established through due process of law.

The Court also referred to the landmark rulings in *Maneka Gandhi v. Union of India*^[3] and *Satish Chandra Verma v. Union of India*^[4], which recognize the right to travel abroad as an integral facet of personal liberty guaranteed under Article 21 of the Constitution. In light of these constitutional principles, the Court emphasized that restrictions on the issuance of passports must be strictly construed and cannot be imposed on the basis of mere allegations or pending investigations. Such restrictions can operate only when the precise statutory conditions prescribed under the Passports Act are satisfied.

Accordingly, the Court concluded that the passport authorities had erred in treating the pending criminal investigation as a disqualification and held that the petitioner’s application was required to be considered independently of the crime registered against him.

Decision

Allowing the writ petition, the High Court directed the Regional Passport Officer to process the petitioner’s passport application strictly in accordance with the provisions of the Passports Act, 1967 and Rule 12 of the Passport Rules, 1980, without treating the pending crime number as a disqualification. The authorities were directed to consider the application expeditiously.

Conclusion

This judgment provides important guidance on the interpretation of Section 6(2)(f) of the Passports Act and draws a clear distinction between a pending police investigation and proceedings pending before a criminal court. The ruling prevents passport authorities from mechanically denying passports merely because an FIR has been registered or an investigation is underway. By linking the statutory restriction to the stage at which a criminal court takes cognizance of an offence, the Court ensures that fundamental rights are not curtailed on the basis of untested allegations. The decision also reinforces the constitutional principle

that the right to travel abroad is a valuable aspect of personal liberty and can be restricted only in accordance with law and upon satisfaction of the specific statutory conditions prescribed by Parliament.

- 1. WRIT PETITION NO: 14854/2026 [?](#)
- 2. (2013) 15 SCC 570 [?](#)
- 3. AIR 1978 SC 597 [?](#)
- 4. (2019) Supreme (SC) 1516 [?](#)

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