

# Court case no bar for renewing your visa



**LEGAL VIEW**  
Ashish Mehta

*Days before leaving an employment two years ago, I took a loan to move into an apartment in Jumeirah Beach Residence. I availed of this loan after my company promised to increase my pay after my marriage. However, the company is yet to increase my salary and I am still paying Dh7,000 per month as loan repayment installments. I'm also unable to pay my credit card bills to other banks. Now, two police cases have been opened against me as a result of which a travel ban has been imposed on me. My current visa expires in June and my company will not be able to renew it because of the outstanding payments. Is there any legal way out of this without going to jail and losing my job?*

Pursuant to your queries, it should be noted that in normal course, banks obtain a security cheque for an amount of credit limit allocated against credit cards issued by them to their customers. The security cheque is presented for collection whenever a customer defaults in payment of credit card bills. In the event a cheque issued to the bank is dishonoured upon presentation, then the bank will file a criminal complaint. Since the bank has already initiated criminal proceedings against you there will be a travel ban imposed on you until you settle your matter with the bank. In the event you are arrested by the police, you will be referred to the public prosecution who may or may not release you on bail. The only options available to avoid your detention is to settle the matter with the bank so they can withdraw the criminal case filed by them against you. You should be able to renew your visa

even though a case is pending against you before the public prosecutor or the court.

**Can my husband refuse to give me my passport?**

*I am a 35-year-old woman who was abandoned by my husband a year ago after living with him in Abu Dhabi for almost a decade. We have two children aged 10 and 4. My husband took us back to my home state of Kerala during my elder daughter's semester break. While leaving, he took away my travel documents without my knowledge and after he reached Abu Dhabi, he sent me a legal notice asking me to send our children to his parents' home in Mumbai. He told me he was not interested in having me back. He later returned my daughters' documents — including a school transfer certificate — but refused to give me my passport. I approached the Indian Embassy through an advocate, and the only reply I got was that he had already sent the passport through courier. Do I have any legal recourse? He is working and residing in the UAE and my divorce case is lagging in my own country. Can I approach the Abu Dhabi Police or the university where he works to initiate legal proceedings?*

Pursuant to your queries, it should be noted that the possession of the Indian passport should be with the individual to whom the passport is issued by the authorities and not with any third party. Passport of an individual can only be confiscated by the authorities based on a valid reason. The government of India is the owner of an Indian passport. This is in accordance with section 17 of the Indian Passport Act of 1967, which states: "A passport or travel document issued under this act shall in all times remain the property of the central government."

In continuance, wrongful possession of the passport is punishable as mentioned in section 12 of the Indian Passport Act of 1967. In the event you have still not received your passport and if you assume that your passport is with custody of your husband, then you may file a complaint with the Indian Embassy in the UAE based in Abu Dhabi and also with the nearest police sta-



## Know the law

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tion in the emirate of Abu Dhabi which has jurisdiction. You may also lodge a complaint with the Ministry of External Affairs against your husband for detention of your passport without your consent.

Since the divorce matter is already pending before the courts of India, the same subject matter cannot be filed in the UAE courts even though UAE courts may have jurisdiction to hear the divorce matter of an expatriate resident of the UAE as per the provisions laid down in federal law no. 28 of 2005 related to personal status (the 'Personal Status Law'). The said law allows an expatriate resident of the UAE to apply the personal laws of his home country. This is in accordance with Article 1(2) of Personal Status Law which states: "The provision of this law shall apply to the citizens of the UAE unless the non-Muslims of them are subject to special provisions applicable to their sect and denomination, as long as none of them insists on applying his law."

Further, article 5 of the said law states: "The state courts shall be competed to try personal status actions initiated against citizens or foreigners having a domicile, residence or workplace in the state."

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