

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.14222 of 2015

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ORDER:

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

“To issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in opening of LOC (look out circular) No.2015403349 against the petitioner is illegal, arbitrary, against the chapter 25 of Interpol and Coordination Wing, apart from being violative of Section 10 of Indian Passport Act and principles of natural justice and Article 14, 16, 19(g) and 21 of the Constitution of India and consequently set aside the same”.

2. Heard Sri Janardhana Reddy Ponaka, learned counsel for the petitioner and the learned Government Pleader for Home for Respondents, apart from perusing the material available on record.

3. According to the petitioner, he married one Mrs.Ayesha Jafar Jeelani on 1.8.2010 as per Muslim Rites and he and his wife lived happily at Qatar till January 2012 and due to constant interference of parents of the petitioner's the then wife, she left to India. It is further stated that he made number of attempts to bring back her to Qatar, but in vain. It is also the case of the petitioner that he applied for divorce before Qazi and obtained divorce on 25.8.2012 after eight months of desertion. It is also stated that the said Ayesha Jafar Jeelani lodged a private complaint before the Court of XV Additional Chief Metropolitan Magistrate (ACMM), Nampally, Hyderabad and the said complaint was referred to police under Section 156(3) of Cr.P.C. and the police registered a case in F.I.R.No.262 of 2012 on 9.10.2012 under Sections 498-A, 406, 506 read with Section 34 IPC read with Sections 3 and 4 of Dowry Prohibition Act. It is further pleaded that on coming to know about the said case, the petitioner arrived from Qatar and obtained anticipatory bail and complied with all the conditions till

filing of charge sheet and the case was numbered as C.C.No.179 of 2015 on the file of XV ACMM Court, Nampally, Hyderabad and the said case is posted to 7.7.2015 to issue the summons to all the accused.

4. According to the petitioner, he has taken a decision to go to Qatar for the purpose of finishing all old assignments and planned to settle in India by collecting the due salary and other benefits from his old employer in Qatar. It is also stated that he started to proceed to Qatar on 21.4.2015 from Rajiv Gandhi International Airport, Shamshabad, but the immigration authorities detained him and handed over to Women Police Station, South along with his passport No.J6455142 and boarding pass. The petitioner herein was released since he already obtained anticipatory bail and complied with all the conditions of bail order. According to the writ petitioner, he completely cooperated with the investigating agency and no NBWs are pending against him. The petitioner herein earlier approached the trial Court, requesting for release of his passport and boarding pass with an intention to go to Qatar for settlement of his old accounts of salary and other benefits. The said request was turned down by the learned Magistrate. According to the petitioner, he approached the police concerned to know about the reason about the detention at Rajiv Gandhi International Airport and he got stunned to know that under the instigation of his wife, 2nd respondent has issued Look Out Circular (LOC) No.2015403349. Calling in question, the validity and legal sustainability of the Look Out Circular issued by 2nd respondent, the present Writ Petition has been filed.

5. It is contended by the learned counsel for the petitioner that the said LOC is totally in contravention of Chapter 25 of Interpol and Coordination Wing. It is stated that the said action of issuing LOC is meant only for absconding prisoners, but not for law abiding individuals. It is also stated by the learned counsel for the petitioner that no NBWs are pending against the petitioner herein and the petitioner has completely cooperated with the investigating agency, which culminated in the filing of charge sheet by the police.

6. On the contrary, it is vehemently contended by the learned Government Pleader that there is no illegality nor any infirmity in the impugned action and the present Writ

Petition is not maintainable in the absence of the same. In support of his submissions and contentions, the learned Government Pleader has placed on record the order of this Court in W.P.M.P.No.6711 of 2015 in W.P.No.3213 of 2015 dated 6.3.2015. This Court by referring to the judgments in **S.Martin v. Deputy Commissioner of Police and others** and **Sumer Singh Salkan v. Gurnek Singh etc.** passed the said order with a direction to the petitioner to approach the learned Magistrate before whom the case is pending. In the last paragraph of the said judgment, this Court held as under:

“I respectfully agree with the aforesaid decisions. Since no purpose would be served by directing the petitioner to approach the Superintendent of Police for the purpose of withdrawal of LOC, this Writ Petition is disposed of permitting the petitioner to move the Court of Special Judicial Magistrate of First Class, Prohibition and Excise, Guntur, where C.C.No.570 of 2014 is pending and to make appropriate application seeking withdrawal of LOC. The petitioner is also at liberty to set out the reasons for making the said request including that he has already surrendered and has been abiding with the directions issued from time to time by the Court. If such an application is made by the petitioner, the learned Special Judicial Magistrate of First Class shall consider the same in accordance with law and pass appropriate orders expeditiously.”

7. In view of the above, taking into consideration the nature of controversy and having regard to the facts and circumstances of the case, this Court deems it appropriate to dispose of the Writ Petition, permitting the petitioner herein to move the Court of XV ACMM Court at Nampally, Hyderabad, where C.C.No.179 of 2015 is pending and to make an appropriate application within one week from today seeking withdrawal of Look Out Circular (LOC) and it is also made clear that the petitioner is at liberty to set out the reasons for making the said request including that he has already surrendered and has been abiding with the directions issued from time to time by the Court. If such an application is made by the petitioner, the learned XV ACMM, Nampally, Hyderabad shall consider the same in accordance with law and pass appropriate orders expeditiously preferably within a period of two weeks thereafter. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 16.6.2015

Note:

Furnish C.C. in (2) days.

B/o

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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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Between:

Habeeb Ahmed Ali Hussain Buftainm

... Petitioner

and

The State of Telangana, rep. by its

Principal Secretary (Home),
Telangana Secretariat, Hyderabad & others.

... Respondents