



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2017

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THE HON'BLE MR.JUSTICE P.N.PRAKASHW.P. (MD) No.9884 of 2017 and
W.M.P. (MD) No.7577 of 2017

A.Kesavan @ Asaithambi

... Petitioner

-vs-

1. The Superintendent of Police,
Madurai Rural District, Madurai.
2. The Inspector of Police,
Melur Police Station,
Melur, Madurai.
3. R.Jeyarani
4. The Regional Passport Officer,
Race Course Road,
Madurai.

... Respondents

(R3 & R4 impleaded by this Court by order dated 07.06.2017)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondents herein to withdraw the look out circular issued by the respondents against the petitioner and consequently to permit the petitioner herein to continue his employment in abroad.

For Petitioner	:	Mr.Veera Kathiravan, Senior Counsel For Mr.C.Sasikumar
For R1 & R2	:	Mr.T.S.Mohammed Mohideen, Addl. Govt. Pleader
For R3	:	Mr.K.Mahendran
For R4	:	Mr.K.R.Laxman, CGSC

O R D E R

This petition has been filed, seeking to direct the respondents herein to withdraw the look out circular issued by the respondents against the petitioner and consequently to permit the petitioner herein to continue his employment in abroad.

<https://hcservices.ecourts.gov.in/hcservices/> sake of convenience, the parties would be referred to by their name.

3. On the complaint of Jeyarani/R3, a case in Crime No.1073 of 2016 has been registered on 04.12.2016 under Sections 419, 420,

466, 468, 471 IPC and Section 12(1)(b) of the Passport Act, 1967 against Asaithambi @ Kesavan, S/o.Arasappan. Admittedly, Jeyarani is the blood sister of Asaithambi @ Kesavan.

4. It is the case of Jeyarani that her father Arasappan got married to one Mookammal and through her, he begot a male child by name Kesavan. Mookammal died and Arasappan married one Kamalam. Through Kamalam, Arasappan begot three sons and one daughter in the following order, i.e., 1) Baskaran, 2) Asaithambi, 3) Vadivel Kumar @ Kumar, 4) Tata Birla and 5) Jeyarani (daughter). The four children, who were born to Kamalam grew along with Kesavan, who was born to Mookammal. While so, after Kesavan attained majority, he got involved in Melur Police Station Crime No.854 of 1976 for the offence under Section 302 IPC and after a full-fledged trial, he was convicted and sentenced to life imprisonment. It is stated that Kesavan underwent the life sentence and after his discharge from the prison, his whereabouts were not known to the family members of Arasappan.

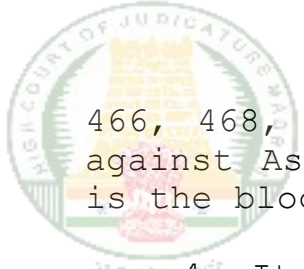
5. While so, it is alleged by Jeyarani that her brother Asaithambi had obtained passports bearing Nos.T457027, F2671559 and L4986499, of course on the expiry of each of them, in the name of Kesavan.

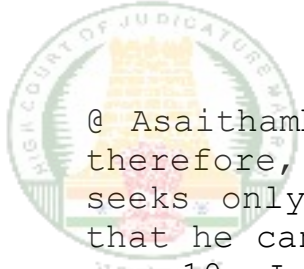
6. Refuting the allegations, Mr.Veerakathiravan, learned Senior Counsel appearing for Kesavan @ Asaithambi submitted that right from his childhood, he was called Kesavan and also as Asaithambi. That is why, he used the appellation @ Asaithambi after the name Kesavan and calls himself as Kesavan @ Asaithambi. In support of this, he produced his marriage invitation card of the year 1994, which also shows him as Kesavan @ Asaithambi.

7. It is the contention of Kesavan @ Asaithambi that he went to Dubai and started several businesses and became affluent. He had also taken Jeyarani's son Raju to Dubai to work for him. While so, some disputes had cropped up between him and his sister Jeyarani and their relationship became strained. Therefore, Jeyarani has given the present complaint in order to wreak vengeance.

8. Admittedly, on the complaint given by Jeyarani, the respondent police have registered a case in Melur Police Station Crime No.1073 of 2016 for the offences stated above and the Police have also issued a Look Out circular to prevent Kesavan @ Asaithambi from going abroad. After the registration of the FIR, Kesavan @ Asaithambi had obtained anticipatory bail in Crime No.1073 of 2016 in CrI.O.P.(MD) No.317 of 2017 on 02.03.2017.

9. It is the contention of Kesavan @ Asaithambi that his visa is expiring on 27.06.2017 and he has to necessarily go to Dubai for renewal of his visa and also to settle certain business issues, failing which, he would incur heavy loss in the business. Mr.Veerakathiravan, learned Senior Counsel submitted that Kesavan





@ Asaithambi is an Indian citizen, having deep roots in India and therefore, he cannot abscond and remain in UAE for good. He now seeks only three months' relaxation of the Look Out circular so that he can go to UAE and return to India within the period.

10. Learned counsel appearing for Jeyarani vehemently opposed the prayer of the petitioner by contending that if the petitioner goes to Dubai, he would take revenge upon Jeyarani's son Raju, who is at present in Dubai and there is a real threat to the life of Raju.

11. Learned Standing Counsel for R4 submitted that on the reference made by the Police, the Regional Passport Officer, Madurai has initiated enquiry and issued a show cause notice to Kesavan @ Asaithambi asking him to explain the allegations made by Jeyarani. Admittedly, Kesavan @ Asaithambi also appeared before the Regional Passport Officer and has given his explanation along with supporting documents. Since the Passport office does not have a separate investigation wing, they have referred the matter to the Superintendent of Police, Madurai to conduct a thorough enquiry on the allegation of Jeyarani and submit a report, based on which they can take appropriate action in the matter.

12. Learned Additional Government Pleader appearing for the State submitted that the Superintendent of Police is enquiring into the documents that have been referred to him by the passport authorities and therefore, the Look Out circular cannot be recalled.

13. This Court gave its anxious consideration to the rivals submissions.

14. It is not anybody's case that Kesavan @ Asaithambi has fabricated a passport for himself. The only allegation is that he has assumed the name of Kesavan and had obtained the passport in the name of Kesavan, though his name is not Kesavan. On the contrary, it is the submission of Kesavan @ Asaithambi that from his childhood, he has been referred to as Kesavan and in support of that, he has produced his marriage invitation card etc. Controverting this allegation, learned counsel for Jeyarani submitted that all these documents are post 1994 and there is no document prior to 1994 to show that Asaithambi was also called as Kesavan. During enquiry, if it is found that he had a passport prior to 1994 in the name of Asaithambi and not in the name of Kesavan, then that would be an offence under the Passport Act.

15. Thus, in the ultimate analysis, the entire issue revolves upon the enquiry report of the Superintendent of Police coupled with the finding arrived at by the Passport Officer on the enquiry report. On the direction of this Court, Kesavan @ Asaithambi has filed an undertaking affidavit, wherein in Paragraph No.8 and in the subsequent para, it is stated as follows:

"8. I further respectfully submit that when the above matter came up for further hearing on 19.06.2017, I am advised to file undertaking affidavit in connection



with my departure to UAE. Therefore I hereby swear that, if I allowed to go abroad to look after my business activities for 3 months, I will not cause any physical harm, threat or intimidation to my sister's son namely R.Raju who is staying in UAE and I will never indulge in any illegal activities and I will come back to India within the time stipulation.

I, therefore prayed that this Hon'ble court may be pleased to permit me to go abroad for 3 months to look after my business activities by directing the respondent police to pass suitable orders in respect of the lookout circular issued against me, for the relevant period of time and pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

16. Taking into consideration the fact that the petitioner has to attend to some urgent business work at Dubai, this Court is of the view that it will be in the fitness of things, if the respondents are directed to recall the Look Out circular for a period of four months from the date of receipt of a copy of this order so that the petitioner goes abroad and returns within a period of three months. The Superintendent of Police, Madurai is directed to expeditiously collect the materials sought for by the passport authorities and send his report to them within three months from the date of receipt of a copy of this order. The passport authorities shall furnish the report of the Superintendent of Police, Madurai to the petitioner as well as Jeyarani and after hearing both sides, pass appropriate orders thereon in accordance with law.

17. With the above direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To:

1. The Superintendent of Police, Madurai Rural District, Madurai.
2. The Inspector of Police, Melur Police Station, Melur, Madurai.
3. The Regional Passport Officer, Race Course Road, Madurai.

+One cc to Mr.C.Sasikumar, Advocate, SR.No.61554

+One cc to Mr.K.Mahendran, Advocate, SR.No.61430

+One cc to Mr.K.R.Laxman, Advocate, SR.No.61551

<https://hcc.madurai.judiciary.gov.in/> The Special Government Pleader, SR.No.61643

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RL/8C/4P/JC/SAR1/23/6/2017

W.P. (MD) No.9884 of 2017

21.06.2017