

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4105 OF 2018

Amritlal Gulabchand Jain (through
his wife Smt.Leela Amritlal Jain) .. Petitioner
Versus
Union of India and others .. Respondents

WITH

WRIT PETITION NO. 4499 OF 2018

Ritesh Amritlal Jain (through his wife
Smt.Kamini Ritesh Jain) .. Petitioner
Versus
Union of India and others .. Respondents

...

Mr. Vikram Choudhari, Sr. Advocate with Prashant Mishra for
the petitioners.
Mr. F.R.Shaikh, APP for the State.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 15th OCTOBER, 2018

P.C:-

1 Heard.

2 The petitioner in Writ Petition No.4105 of 2018 is
the accused no.1 and petitioner in Writ Petition No.4499 of

Tilak

2018 is accused no.2 in FIR bearing C.R.No. 258 of 2017 registered with L.T. Marg Police Station for an offence punishable under Sections 406, 420, 420-B of the IPC. The investigation of this FIR is already complete and charge-sheet is filed which is numbered as C.C.No.280 of 2018 and at present pending on the file of Addl. Chief Metropolitan Magistrate, 28th Court, Esplanade, Mumbai, at the instance of Dy. Commissioner, Board-02. Notice is issued against both the petitioners on 18th October 2017 for the period of one year.

3 The present petitions are filed challenging the constitutional validity of office Memorandum No.2506/31/2010-IMM dated 27/10/2010. The petitioners have also sought Quashment of the Look Out Circular (LOC) issued against them in the said FIR. Learned counsel for the respective petitioners submit that investigation having been completed in the said FIR and charge is already filed, there was no need to issue LOC. Learned counsel also makes a statement that their clients at present are residing at Dubai and they want to come to India to attend the proceedings of said Criminal Case. Learned counsel submits that in view of the LOC, the petitioners cannot come to India and appear before the Court. The investigation also submits that the next date of the criminal case is 26th December 2018. The Court has issued summons to them and they will come and attend the Court on or before 26th December 2018.

4 Shri Shaikh, learned APP, on instructions, makes a statement that the life of the LOC is one year and LOC will expire by efflux of time on 17th October 2018.

5 Learned counsel for the petitioners, on instructions from Smt.Kamini Ritesh Jain, wife of Ritesh Amritlal Jain, petitioner in WP No. 4499 of 2018 who is present before the Court submits that the petitioners are ready to give an undertaking that they would appear before the Court of Addl. Chief Metropolitan Magistrate, 28th Court, Esplanade, Mumbai on or before 26th December 2018. The said statement is accepted. Learned APP submits that if the petitioners appear as per the undertaking, the LOC will not be renewed.

6 In the above circumstances, without going into the wider issue about the constitutional validity of the impugned office Memorandum, we dispose of these petitions by passing the following order :

ORDER

(i) The petitioners shall appear before the Addl. Chief Metropolitan Magistrate, 28th Court, Esplanade, Mumbai on or before 26th December 2018 in pursuance to the summons issued against them.

(ii) On such appearance, as undertaken above, the Deputy Commissioner of Police, Board-2 shall not revive the LOC against the petitioners.

In the event the petitioner fails to appear before the learned Magistrate as stated above, the Deputy Commissioner of Police is at liberty to revive the LOC.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)