

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Seventh day of August Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.11181 AND 11182 of 2018

IN CRL OP.20741/2018

M.A.SIVAKUMAR

[PETITIONER]

Vs

1 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
W-22, MYLAPORE,
CHENNAI- 600 004.

[RESPONDENTS]

2 P.GOWTHAMI

Petition praying that in the circumstances stated therein the High Court will be pleased to

[i]dispense with the personal appearance of the petitioner herein in C.C.No. 4475 of 2018 on the file of the XVIII Metropolitan Magistrates Court, Saidapet, Chennai pending disposal of the above quash petition.[CRL.MP.NO.11181/2018]

[ii]direct the 1st respondent to withdraw the LOC-LOOK out Circular issued against me M.A.Sivakumar in C.C.NO.4475 of 2018 on the file of the XVIII Metropolitan Magistrate,Saidapet,Chennai and pass further directions to communicate the order of withdrawal of the LOC-LOOK out Circular to the Immigration officer,Meenambakkam Airport,Chennai pending disposal of the above quash petition.[CRL.MP.NO.11182/2018]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of MR.A.RAGHUNATHAN SENIOR COUNSEL FOR M/S.P.P.VIKRAM Advocate for the petitioner and of MR.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

It is the case of the prosecution that Gowthami got married to Sivanandam on 08.09.2016 and after marriage, Gowthami came to know that Sivanandam had undergone kidney transplantation six years back and he had also suffered a road accident, sometime in the year 2011. However, they went for honeymoon to Mauritius and returned to Mumbai, where, Sivanandam was working. On 29.09.2016, Sivanandam developed uneasiness and was rushed to Sir H.N.Reliance Foundation Hospital & Research Centre, Mumbai, where he was admitted as in-

patient. Despite treatment, he died on 17.10.2016. On the complaint given by Gowthami that Sivanandam's family had suppressed about the kidney transplantation and the accident and got him married to her, the respondent Police registered a case in Crime No.7 of 2017 and after completing the investigation, have filed a Charge Sheet in C.C.No.4475 of 2018 for the offence under Section 417 and 406 IPC and Section 3 and 4 of Dowry Prohibition Act against Manickam [A1], Sivagami Sundari [A2], Sivashankar [A3], Sivakumar [A4] and Agilandeswari [A5], for quashing which, Sivakumar [A4] has filed Crl.O.P.No.20741 of 2018.

2.During investigation, the Police issued Look Out Circular to apprehend Sivakumar, for recalling which, Crl.M.P.No.11182 of 2018 has been filed.

3.Heard Mr.A.Raghunathan, learned Senior Counsel and the learned Additional Public Prosecutor.

4.On perusal of the records, it is seen that Sivakumar is the brother-in-law of the deceased Sivanandam, inasmuch as, he has married Agilandeswari [Sivanandam's sister]. Admittedly, Sivakumar is working in Angola in Africa and he had come to India on 06.09.2016 to attend the marriage of Sivanandam on 08.09.2016. There are no serious allegations as against Sivakumar, except stating that he being the part of Sivanandam's family had suppressed about Sivanandam's ailments. On a perusal of the statement of Dr.Arun Shah, Sir H.N.Reliance Foundation Hospital & Research Centre, Mumbai, he has given the following opinion :

"Chief complaints H/o right sided weakness, H/o vomiting 2 episodes, H/o loose stool 2 days duration, relevant associated complaints Mr.Shivanandam apparently alright till 27.09.2016. When he started having complaints of vomiting and loose stool, he had complaints of dehydration. On 28.09.2016, he was developed right sided weakness and drowsiness. He has evaluated at MGM Hospital, Navi Mumbai. He was found to have left MCA stroke for which he was thrombolysed with actylase. He was started on anti edema measure. His condition remain unchanged and post thrombolysis scan showed significant cerebral edema temporo parietal region. He was shifted to RFH ICU for further care on 29.09.2016 at midnight."

5.A reading of the statement of Dr.Arun Shah shows that the death of Sivanandam was not on account of kidney failure, but was on account of stroke suffered by him. That apart, Sivakumar is an Indian citizen and has employed in Angola and he would lose his job, if he does not report to duty there. On a reading of the Charge Sheet in C.C.No.4475 of 2018, the Investigating Officer has stated that he has issued Look Out Circular to apprehend Sivakumar, as and when he enters India or leaves India.

case, this Court is of the view that interest of justice will be served, if the Look Out Circular is directed to be recalled and the following conditions imposed for dispensing with his presence:

- i. The petitioner shall appear before the trial Court within one week from the date of receipt of a copy of this order and execute a bond under Section 88 Cr.P.C. for Rs.10,000/- [Rupees Ten Thousand Only] with two sureties ;
- ii. He shall give an undertaking that he will appear before the trial Court, without waiting for summons, in the event of Crl.O.P.No.20741 of 2018 being dismissed;
- iii. He shall submit a photocopy of his Passport and his address in Angola, e-mail i-d and mobile number to the trial Court. Thereafter, the presence of the petitioner before the trial Court shall stand dispensed with until disposal of Crl.O.P.No.20741 of 2018.

The respondent Police is directed to forthwith recall the Look Out Circular and intimate the same to the immigration authorities.

With the above direction, these petitions are ordered accordingly.

-sd/-
27/08/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
COURT NO.XVIII, SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE DEPUTY COMMISSIONER OF
POLICE, MYLAPORE

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
W-22, MYLAPORE,
CHENNAI- 600 004.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 C.C. to M/S.P.P.VIKRAM Advocate on payment of necessary
charges SR.NO. 16031

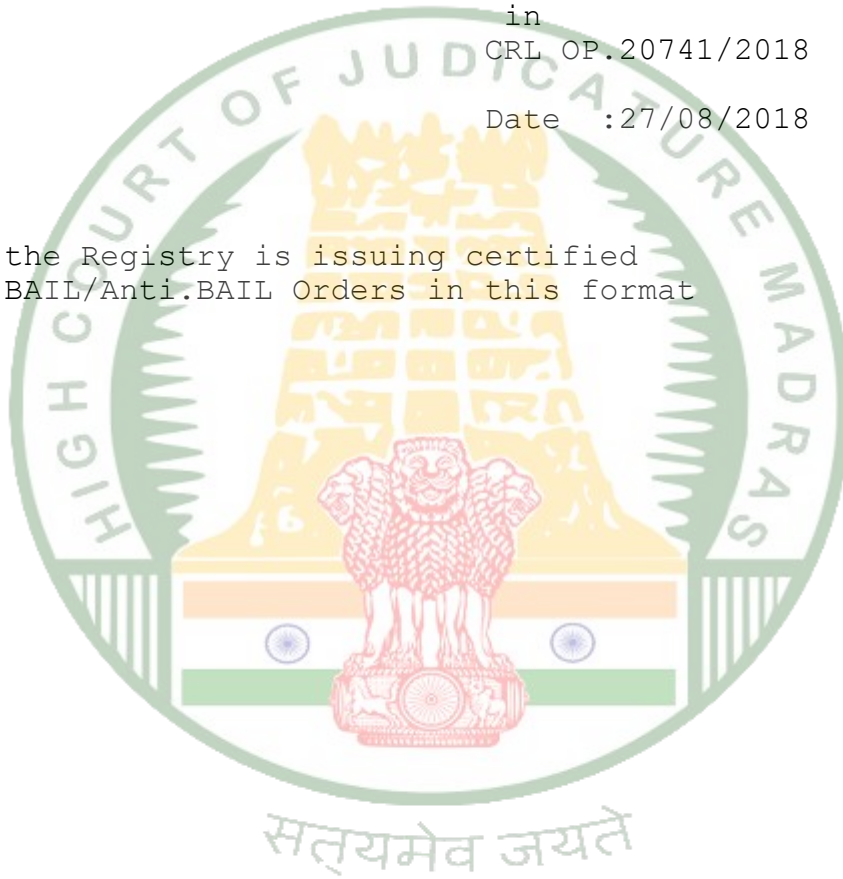
Order

in
CRL MP.11181 AND 11182/2018

in
CRL OP.20741/2018

Date :27/08/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 27/08/2018



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