

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.26091 of 2018

J.Arockia Vimal

...Petitioner

Vs.

1.State rep by:

The Inspector of Police,
W-32, All Women Police Station,
Madipakkam, Chennai.

...1st Respondent/Complainant

2.A.Jansi Rani

...2nd Respondents/De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the first respondent to recall the look-out circular issued in Cr.No.05 of 2015 on the file of the first respondent police by allowing this petition.

For Petitioner : Mr.K.Balasubramaniam

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed to direct the first respondent to recall the look-out circular issued against the petitioner in Cr.No.5 of 2015, which is pending on the file of the first respondent.

2. The learned counsel for the petitioner would submit that an FIR is pending in Cr.No.5 of 2015 for the offences under Sections 498, 406, 323 and 506(i) of IPC and this petitioner has been arrayed as A1 in the said FIR. Pursuant to the registration of the FIR, a look-out circular has been issued against this petitioner in the year 2015 itself and the same is kept pending till today. According to the learned counsel for the petitioner, the respondent Police have not even completed

the investigation and filed a final report. When the petitioner attempted to go abroad for his work, he was stopped in the immigration on the ground that the look-out circular has been issued against him. Therefore, the petitioner has approached this Court seeking for appropriate direction to withdraw the look-out circular.

3. The learned counsel for the petitioner would submit that the respondent Police cannot keep the look-out circular pending for ever. The look-out circular is valid only for a period of one year from the date on which it has been issued and strictly speaking as on today, the look-out circular has become stale. Therefore, unless and otherwise, the respondent Police have renewed the look-out circular, the petitioner cannot be stopped from undertaking his vocation abroad and stopping the petitioner would amount to violation of his fundamental rights under Article 21 of the Constitution of India.

4. The learned Additional Public Prosecutor appearing for the 1st respondent, on instructions, would submit that an FIR is pending and the final report is yet to be filed before the appropriate Court by the respondent Police. The learned Additional Public Prosecutor would further submit that the respondent Police will complete the investigation and file a final report expeditiously.

5. This Court has carefully considered the submissions made on either side.

6. This Court had an occasion to deal with a issue of similar nature and the relevant portion of the order in W.P.(MD) No.1402 of 2018 dated 13.08.2018, is extracted hereunder:

"In view of the common order passed in CrI.O.P.(MD) No.16164, 22700 and 22717 of 2016, the first respondent is directed to withdraw the Look Out Circular (LOC) issued against the Mathanraj, within a period of two weeks from the date of receipt of a copy of this order."

7. In view of the above, the look-out circular that has been issued against the petitioner has become ineffective after the expiry of one year from the date on which it has been issued. Stopping the petitioner from undertaking his vocation abroad, on the basis of a stale look-out circular directly infringes upon the right of the petitioner under Article 21 of the Constitution of India. The purpose of the look-out circular cannot be defeated by using it in cases of this nature, where the dispute between the parties is purely a matrimonial dispute.

8. For the reasons stated above, the petitioner is directed to make a representation to the Deputy Commissioner of Police, St. Thomas Mount, Chennai, seeking for withdrawal of the look-out circular issued against the petitioner. The Deputy Commissioner shall follow the guidelines issued by the Government of India and also the direction given by this Court in the order referred supra and take appropriate decision, within a period of two weeks from the date of receipt of a copy of this order.

9. This Criminal Original Petition is disposed of with the above direction. The first respondent Police is directed to complete the investigation and file a final report, within a period of two months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
W-32, All Women Police Station,
Madipakkam, Chennai.

2.The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr.K.Balasubramaniam, Advocate, S.R.No.77284

CRL.O.P.No.26091 of 2018

SSV(CO)
GSP(15/11/2018)

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