



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P. (MD).No.19805 of 2018

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Nagarajan

... Petitioner

Vs

1.The Superintendent of Police,
Pudukkottai District, Pudukkottai.

2.The Inspector of Police,
All Women Police Station,
Alangudi,
Pudukkottai District.
(Crime No.6 of 2018)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to direct the 1st respondent to withdraw the look out circular issued as against the petitioner in connection with the case in Crime No.6 of 2018, on the file of the 2nd respondent police and consequently direct the 1st respondent to intimate the same to the immigration officers.

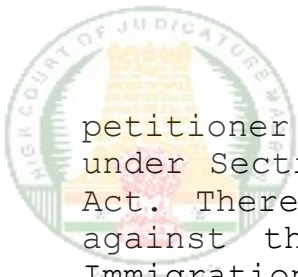
For Petitioners	:Mrs.A.Banumathi
For Respondents	:Mr.R.Anandharaj,
	Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking for a direction to the first respondent to withdraw the request for the look out circular issued as against the petitioner in connection with the case in Crime No.6 of 2018, on the file of the second respondent police and consequently, direct the first respondent to intimate the same to the Immigration Officers.

2.The learned counsel appearing for the petitioner would submit that the petitioner is working as a Driver in Lockson Hydraulics & Engineering Private Limited at Singapore. The petitioner was married to one Athilakshmi on 21.08.2015, out of the wedlock, a boy baby was born in the year 2016. Due to some misunderstanding between the petitioner and his wife, the petitioner's wife went out from the matrimonial home. Thereafter, several steps have been taken for reunion, but she was refused to reunion with her husband.

3.The learned counsel for the petitioner would further submit that the petitioner's wife has given a false complaint against the petitioner herein before the second respondent police. The second respondent police without conducting any proper investigation, straight away registered a case against the



petitioner in Crime No.6 of 2018 for the alleged offences punishable under Sections 498(A), 323 I.P.C and Section 4 of Dowry Prohibition Act. Thereafter, the first respondent issued a look out circular against the petitioner and the same has been intimated to the Immigration Authorities.

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4.The learned counsel appearing for the petitioner would also submit that the petitioner had moved an anticipatory bail before this Court in Crl.O.P.(MD)No.15989 of 2018 and the case was referred to the mediation. The petitioner's wife did not co-operate for the mediation, hence, mediation failed. On 23.10.2018, this Court granted anticipatory bail to the petitioner. In compliance of the anticipatory bail, sureties were produced before the learned Judicial Magistrate, Alangudi, Pudukkottai District. The petitioner has got job at Singapore and due to the look out circular issued against him, he is unable to travel to Singapore for his avocation. He would further submit that visa has also expired on 26.08.2018 and that if only the look out circular is recalled, he can apply for renewal of visa. The petitioner's monthly salary is Rs.40,000/- and he has also obtained loan for the value of Rs.15,00,000/- from Indian Overseas Bank, Alangudi, Pudukkottai Branch. The petitioner is liable to pay a sum of Rs.18,598/- from August 2018 for a period of 10 years. If the petitioner is allowed to go to Singapore for his work, he will be at least able to take care of his parents, wife and child. The act of the respondent in seeking request for look out circular is without any basis, since it is not a case that he has absconded or evaded the due process of law. The petitioner was always ready to co-operate with the investigation. There is no emergency situation necessitating issuance of look out circular. The petitioner has also filed an affidavit to undertake that without prejudice, the petitioner shall pay the amount of Rs.10,000/- as monthly maintenance to his wife. The learned counsel for the petitioner would further submit that the right to travel abroad is a fundamental right guaranteed under Article 21 of the Constitution of India and as a person holding valid passport he cannot be interdicted or prevented from travelling abroad without any reasonable feel. The learned counsel for the petitioner would also rely on the judgment of High Court of Madras in the case of Arockia Jeyabalan Vs. The Regional Passport Officer, Mount Road, Chennai and others reported in 2014-4-L.W.841 and would submit that in a case of this nature, the court has to balance equities between both the parties. The learned counsel for the petitioner would also rely on the judgment of this Court in the case of Balamurugan Vs. The Superintendent of Police, Thanjavur District, Thanjavur and others in Crl.O.P(MD)No.18485 of 2018.

5.The learned Additional Public Prosecutor for the respondents would submit that this case was registered on 09.07.2018 and that the petitioner was called for an enquiry, since he did not turn up for the enquiry, the respondents had requested the appropriate authorities to issue a look out circular on 14.07.2018 fearing that the petitioner will leave the country. However, he



would submit that the petitioner has been granted anticipatory bail and he has appeared before the respondent police and given his statement.

6. Now, coming to the case on hand, it is matrimonial dispute. The petitioner is an Indian Citizen holding a valid Indian passport and working as a Driver in Singapore. The case had been registered on 09.07.2018 for the offences under Section 498(A), 323 IPC and Section 4 of the Dowry Prohibition Act. Immediately, within few days, the request for look out circular had been sought for. Thereafter, the petitioner has been granted anticipatory bail and he has also furnished sureties and co-operated with the respondent in his investigation.

7. The petitioner has also given an undertaking by filing an affidavit before this Court stating that he will co-operate with the investigating agency and that if the respondent police or the trial court will issue summons to him, he will immediately appear before them for enquiry. He has also given his mail ID and had submitted that if the respondent police or trial court is unable to serve summons on the petitioner, they can contact his sister namely, J. Santhi, W/o. Jeyamangalam residing at 67 A, K.V.S. Street, Alangudi, Alangudi Taluk, Pudukkottai or his close friend namely R. Kathiravan, S/o. Rathinam residing at 163/3, Kalaingar Road, Alangudi, Pudukkottai, and that they will intimate him, whenever, the petitioner is asked to appear before the respondent for enquiry or before the Court for trial. The learned counsel would further submit that if the petitioner fails to appear, there are other remedies available under law for the respondent to cancel the passport of the petitioner.

8. This Court has also taken note of the undertaking given by him that the petitioner shall pay the monthly maintenance Rs.10,000/- to his wife and child. Taking into consideration submission made by both counsel and also materials on record, this Court directs the respondents to give request for withdrawing the look out circular immediately to the Immigration Authorities. In the event, if the petitioner violates any of the undertaking given by him, it is always open to the second respondent to take steps in accordance with relevant law and procedure to cancel the passport and intimate it to the Immigration Authorities in Singapore that the petitioner's stay in Singapore is without a valid passport or travel documents.

9. Accordingly, this Criminal Original Petition is ordered.

Sd/

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar(CS-IV)



To

1.The Superintendent of Police,
Pudukkottai District, Pudukkottai.

2.The Inspector of Police,
All Women Police Station,
Alangudi,
Pudukkottai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.BANUMATHY, Advocate, SR.No. 96273

Cr1.O.P. (MD) .No.19805 of 2018

SKN

KK/SV/SAR-4/30.11.2018/4P-5C