



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.19426 of 2018

and

W.M.P. (MD) No.17266 of 2018

Nagarajan

... Petitioner

vs.

- 1.The Superintendent of Police
Thoothukudi District, Thoothukudi
- 2.The Inspector of Police
Kovilpatti West Police Station
Kovilpatti, Thoothukudi District
- 3.The Foreigners Regional Registration Officer
Bureau of Immigration
Sastri Bhavan Annexure
No.26, Haddows Road
Nungambakkam, Chennai
- 4.The Chief Immigration Officer
Sastri Bhavan Annexure
No.26, Haddows Road
Nungambakkam, Chennai

5.Perumalsamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 3rd and 4th respondents not to permit the 5th respondent leaving to Kuwait from India till the conclusion of the trial proceedings in C.C.No.255 of 2016, on the file of the learned Judicial Magistrate No.II, Kovilpatti.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader for R1 to R4

**O R D E R**

The case of the petitioner is that the fifth respondent, who appears to be his friend, had borrowed a sum of Rs.40,00,000/- from the petitioner in order to run business in Kuwait. According to the petitioner, after the receipt of money, the fifth respondent has neither given any share in the business nor paid the amount borrowed from him. In this regard, an F.I.R. has been filed in Crime No.379 of 2015, for various offences under the Indian Penal Code, on the file of the second respondent - Police. In view of the fifth respondent working abroad, according to the petitioner, a lookout notice was issued against him and a charge sheet was also filed before the learned Judicial Magistrate No.II, Kovilpatti.

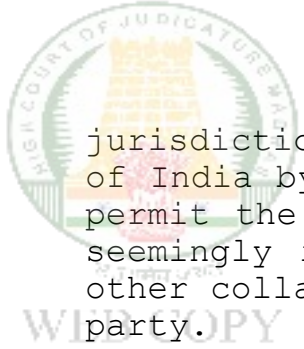
2. While so, when the fifth respondent was returning to India, he was arrested, on 02.07.2018, by the second respondent - Police at Trivandrum Airport and produced before the learned Judicial Magistrate No.II, Kovilpatti. However, the learned Judicial Magistrate enlarged the fifth respondent on bail vide order, dated 02.07.2018 in CrI.M.P.No.5570 of 2018.

3. According to the petitioner, in spite of the above facts, the fifth respondent attempted to flee the country and therefore, it appears that the petitioner submitted a representation before the third respondent, on 04.09.2018, not to permit the fifth respondent to go abroad.

4. From the nature of dispute, as disclosed in the affidavit filed in support of the writ petition, it appears that there has been a financial transaction between the petitioner and the fifth respondent and in order to settle the personal scores with the fifth respondent, the petitioner is seeking involvement of this Court by invoking its extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. This Court's writ jurisdiction cannot be invoked with an ulterior motive and hidden agenda and to arm-twist the fifth respondent in order to recover the so-called amount given by the petitioner to the fifth respondent in respect of certain understanding between them. In case the petitioner has any issues with the fifth respondent towards the non-payment of amount borrowed from him or the conduct of the fifth respondent not fulfilling his part of the oral promise, it is always open to the petitioner to approach the competent Civil Court to sort out the issues and proceed against the fifth respondent both criminally and civilly.

6. Without approaching the appropriate Courts, the petitioner has adopted a shortcut method of invoking the



jurisdiction of this Court under Article 226 of the Constitution of India by seeking a direction to the respondents 3 and 4 not to permit the fifth respondent to leave the country. Behind such a seemingly innocuous prayer, the petitioner wants to achieve some other collateral purpose, for which this Court cannot be made as a party.

7. For the aforesaid reasons, this Court is of the considered view that the prayer as such in this writ petition cannot be maintained under Article 226 of the Constitution of India and therefore, the writ petition is dismissed as being completely devoid of merits and substance. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS-IV)

To:

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

2. The Inspector of Police,
Kovilpatti West Police Station,
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+1 CC TO The Special Government Pleader SR.NO. 83353

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KRK