

**HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

**Writ Petition No.8510 of 2009**

**ORDER:**

The petitioner seeks Writ of Mandamus declaring the inaction of the 1<sup>st</sup> respondent in removing/deleting the name of the petitioner from look out notice (LOC) as illegal, unjust and contrary to the provisions of Passport Act, 1967 and the Rules made thereunder and violative of Article 21 of the Constitution of India and consequently direct the 1<sup>st</sup> respondent to remove/delete the name of the petitioner from the look out notice (LOC).

2) Petitioner's case is that he has been residing in USA since 15 years and he married Swapna Sharma in USA and subsequently in the year 2000 due to some differences, he applied for divorce before a competent Court of law at USA. Subsequently, he married one Manjith Kaur and thereafter divorced her. In the interest and welfare of the children, he re-married Swapna Sharma in the year 2004 as per Christian rites and customs at New York, USA. Even after re-marriage, the said Swapna Sharma did not mend her ways and therefore, he was constrained to seek divorce before a competent Court of law at New York. After filing divorce petition, Swapna Sharma came back to Hyderabad, India and as a counter blast, filed complaint under Section 498A IPC before Woman Police Station, Begumpet, Hyderabad with all false allegations which was registered as Cr.No.113 of 2007.

3) The submission of petitioner is that on coming to know of registration, he sought for anticipatory bail which was granted to him in CrI.M.P.No.2525 of 2007 by the V Additional Metropolitan Sessions Judge, Hyderabad by his order dated 21.09.2007. In September, 2008 he came back to India for furnishing sureties as per the directions in the bail order. When he landed in India at Indira Gandhi International Airport, New Delhi on 10.09.2008, he was detained by the 3<sup>rd</sup> respondent on the ground that look out notice (LOC) was issued against him by the 1<sup>st</sup> respondent on a requisition made by 4<sup>th</sup> respondent in connection with Cr.No.113 of 2007 and later he was handed over to the police, IGIA PS by the 3<sup>rd</sup> respondent and he was detained for about 8 to 10 hours in the police station. Thereafter, the Delhi Police contacted the concerned officer at Hyderabad and as per his instructions, petitioner was released but his travel documents and passport were seized. Subsequently he came to Hyderabad and furnished the required sureties before the SHO, WPS, North Zone, Begumpet and he was released on bail. While so, the Inspector, WPS, North Zone made an application before XIII Additional Chief Metropolitan Magistrate, Hyderabad in CrI.M.P.No.4160 of 2008 seeking permission to seize his passport which was opposed by the petitioner and the said petition is dismissed, but the learned XIII Additional Chief Metropolitan Magistrate imposed a condition that the petitioner shall not leave India without prior permission of the Court. Thereafter, the petitioner in CrI.M.P.No.4267 of 2008 in CrI.M.P.No.4160 of 2008 sought permission to visit abroad and the said

petition was allowed on 06.10.2008. Thereafter, the petitioner made a representation dated 10.10.2008 to the Inspector of Police, WPS, North Zone, Begumpet, Hyderabad through his counsel requesting to return his passport which was seized by the Delhi Police and to remove/delete his name in the look out notice (LOC) in view of the order passed by the concerned Court. The passport of the petitioner was returned to him and he was informed that steps were initiated through 4<sup>th</sup> respondent for removing his name from look out notice by sending written requisition to the 1<sup>st</sup> respondent dated 13.10.2008. Thereafter, on the basis of orders of learned XIII Additional Chief Metropolitan Magistrate, Hyderabad, the petitioner left to USA and presently he is residing at USA. He came to know that 1<sup>st</sup> respondent failed to remove his name inspite of passage of time. The petitioner is willing to visit India to see his age old parents and unless his name is deleted from look out notice, it is difficult for him to visit India.

Hence, the present writ petition.

4) When the matter came up for hearing, learned Government Pleader for Home representing 4<sup>th</sup> respondent by filing copy of the order in CrI.M.P.No.2268 of 2010 in C.C.No.603 of 2009 on the file of XIII Additional Chief Metropolitan Magistrate (Mahila Court) Hyderabad, would submit that the petitioner herein is A1 in the said case and he filed discharge application under Section 239 Cr.P.C. and the trial Court after enquiry allowed the said petition and discharged him from the case due

to which and also the term of LOC was over long back, there is no necessity to pass any final order in the writ petition.

- 5) There is no representation for the petitioner.
- 6) It is seen, this Court in WPMP No.11135 of 2009 passed interim order as follows:

*Learned Government Pleader for respondent No.4 has produced a letter purported to have been addressed by the Passport Officer, Secunderabad dated 13.10.2008, which reads as under:*

*“While inviting your attending to his office letter of even No. dated 20.09.2007 (copy enclosed) it is to inform that on requested by this office, a letter of LOC for apprehension and impounding of passport in r/o Sri Subhash R.Sharma, age 39 years, Occ: Teacher r/o Plot No.59, Charryvola Sitapathi Colony, Maredpally, Secunderabad has been issued and accordingly the said accused while landing at Indira Gandhi International Airport, New Delhi has been detained and seized the passport on 10.09.2008 by the SHO, Indira Gandhi International Airport, New Delhi and informed to WPS, Begumpet accordingly.*

*The said accused obtained anticipatory bail from Hon’ble V Additional MSJ, Hyderabad vide Crl.M.P.No.2525 of 2007 with direction to release the petitioner on bail on his executing a bond for Rs.10,000/- with two sureties. On 19.09.2008 the said accused surrendered before SHO, WPS, Begumpet, North Zone, Secunderabad.*

*Under the above circumstances you are requested to take suitable action and pass suitable orders to the concerned to cancel the LOC so as to implement the orders of the Hon’ble Court.”*

*Under those circumstances, there shall be interim direction as prayed for.*

- 7) In view of the aforesaid order and also in view of the order in Crl.M.P.No.2268 of 2010 passed by XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad wherein the petitioner was

discharged from C.C.No.603 of 2008, this Court is of the view that writ petition can be allowed.

8) In the result, this Writ Petition is allowed and 1<sup>st</sup> respondent is directed to remove/delete the name of the petitioner from look out notice (LOC) if already not removed. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

Date: 17.09.2018  
Murthy

**U. DURGA PRASAD RAO, J**

