

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.38707 of 2018

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“To issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not removing the names and photographs of the petitioners from the Look of Notice inspite of the cancellation of NBWs by the III Additional Judicial First Class Magistrate Court on 30.07.2018 in CFR.No.4467/2018 in DVC.No.6/2016 and also not considering the representation of the petitioners, dated 31.07.2018, as illegal, arbitrary and against the principles of natural justice and Article 14, 16, 19 and 21 of the Constitution of India”.

Heard Sri Sk.Rizwan Ali, learned counsel for the petitioners, and the learned Government Pleader for Home for Respondents, apart from perusing the material available on record.

According to the petitioners herein, who are wife and husband, the brother of the first petitioner married one Thippisetti Tulasi Sivasai and, thereafter, due to some family disputes, the wife of the said Sivasai filed DVC.No.6/2016 by showing the names of all the family members, including the petitioners herein, however, without their involvement in the matrimonial affairs, and the Court below, without looking into

the real facts of the case, issued NBWs against the petitioners herein on 24.04.2017 and basing on the NBWs, police issued Look Out Notice against the petitioners and the petitioners surrendered before the Court below on 20.07.2018 and the Court below granted bail to them and also cancelled the NBWs issued against them on 30.07.2018. It is the further case of the petitioners that, after cancellation of the NBWs, petitioners herein approached the third respondent requesting to remove the photographs and names lying in the Look Out Notice but the third respondent did not consider the same and till date not removed the names and photographs lying in the Look Out notice in the web site.

It is contended by the learned counsel for the petitioners that the said LOC is totally in contravention of Chapter 25 of Interpol and Coordination Wing. It is stated that the said action of issuing LOC is meant only for absconding prisoners, but not for law abiding individuals. It is also stated by the learned counsel for the petitioners that no NBWs are pending against the petitioners herein and the petitioners have completely cooperated with the investigating agency, which culminated in the filing of charge sheet by the police.

On the contrary, it is vehemently contended by the learned Government Pleader that there is no illegality nor any infirmity in the impugned action and the present Writ Petition is not maintainable in the absence of the same. In support of

his submissions and contentions, the learned Government Pleader has placed on record the order of this Court in W.P.M.P.No.6711 of 2015 in W.P.No.3213 of 2015 dated 06.03.2015. This Court by referring to the judgments in ***S.Martin v. Deputy Commissioner of Police and others***¹ and ***Sumer Singh Salkan v. Gurnek Singh etc.***² passed the said order with a direction to the petitioner to approach the learned Magistrate before whom the case is pending. In the last paragraph of the said judgment, this Court held as under:

“I respectfully agree with the aforesaid decisions. Since no purpose would be served by directing the petitioner to approach the Superintendent of Police for the purpose of withdrawal of LOC, this Writ Petition is disposed of permitting the petitioner to move the Court of Special Judicial Magistrate of First Class, Prohibition and Excise, Guntur, where C.C.No.570 of 2014 is pending and to make appropriate application seeking withdrawal of LOC. The petitioner is also at liberty to set out the reasons for making the said request including that he has already surrendered and has been abiding with the directions issued from time to time by the Court. If such an application is made by the petitioner, the learned Special Judicial Magistrate of First Class shall consider the same in accordance with law and pass appropriate orders expeditiously.”

In view of the above, taking into consideration the nature of controversy and having regard to the facts and circumstances of the case, this Court deems it appropriate to dispose of the Writ Petition, permitting the petitioners herein to move the Court of the III Additional Judicial First Class

¹ 2014 Law Suit (Mad) 250

² 2010 Law Suit (Del) 1628

Magistrate, Ongole, where DVC.No.6 of 2016 is pending and to make an appropriate application within one week from today seeking withdrawal of Look Out Circular (LOC) and it is also made clear that the petitioners are at liberty to set out the reasons for making the said request including that they have already surrendered and have been abiding with the directions issued from time to time by the Court. If such an application is made by the petitioners, the III Additional Judicial First Class Magistrate, Ongole, shall consider the same, in accordance with law, and pass appropriate orders expeditiously preferably within a period of two weeks thereafter.

Accordingly, Writ Petition is disposed of. There shall be no order as to costs.

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

29th October, 2018.
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A.V.SESHA SAI, J