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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1095/2018 & CM No. 4587/2018

JITENDRA MISRA AND ANR. Petitioners
Through : Mr. Deepkaran Dalal, Adv.

versus

MINISTRY OF HOME AFFAIRS & ORS..... Respondents
Through : Mr. Ajay Digpaul, CGSC with Ms.
Madhuri Dhingra, Adv. for R-1&2.
Mr. Anupam Srivastava, ASC with
Ms. Shreya Mehta, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

O R D E R

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06.02.2018

CM No.4587/2017 (exemption)

Allowed, subject to just exceptions.

W.P.(C) 1095/2018

1. Issue notice to the respondents.
2. Mr. Ajay Digpaul, CGSC accepts notice on behalf of respondent nos.1 and 2 while Mr. Anupam Srivastava, ASC accepts notice on behalf of respondent no.3.
3. Learned counsels for the respondents say that they do not wish to file a counter affidavit in the matter and would argue based on the record as it subsists.
4. In the writ petition, the following substantive prayers have been sought :

“a) Issue appropriate writ in the nature of Mandamus directing the Respondents 1,2 and 3 are not to illegally detain, harass and humiliate the Petitioners on account of some look out notice(s) in the name persons having identical names;

b) Further direct the Respondents 1,2 and 3 to appropriately compensate the Petitioners on account of their illegal detention on every visit on account of the above said look out notice(s)”

5. The petitioners are aggrieved as would be evident from the prayers culled out above and the averments made in the writ petition on account of the fact that they have been illegally detained not once but three times because of Look Out Circulars (LOCs) issued against the persons having identical names as that of the petitioners.

6. It is not disputed before me that FIR No.206, dated 8.5.2016, has been registered at the Palam Village, New Delhi, Police station against Smt. Archana Misra, and her husband Jitendra Misra the namesake of the Petitioners herein.

7. Learned counsel for respondent no.3 says that LOCs were issued qua the accused Archana Misra and Jitendra Misra based on an order issued by this court dated 1.7.2016, passed in Bail Application No.1336/2016. Mr. Digpaul who appears for respondent nos.1 and 2 says that the said respondents acted on the official communication sent by the Assistant Registrar of this court, which again, emanated from the order dated 1.7.2016 passed by this court.

8. Quite clearly, this court did not direct the respondents to detain the petitioners as they were not the accused in FIR No.206, dated 8.5.2016. However because of mistaken identity the petitioners were in fact detained three times for no fault of theirs. 8.1 In this behalf it is submitted that the petitioners were detained twice at Indira Gandhi International Airport and once at the Rajiv Gandhi International Airport, Hyderabad.

9. According to me, it was incumbent upon the respondents to verify the identity of persons against whom LOCs are issued. In this the

respondent No. 1 and 2 ought to have collected on the identity documents of accused before taking out the LOCs. Most time photographs may suffice. In some cases such as in the case of identical twins birthmarks etcetra may have to be noted.

9.1 As to how identity of persons qua whom LOCs are issued is to be established is best left to respondents but certainly cannot be based solely on name as was callously done in this case not once but three times.

10. Learned counsels for the respondents say that they will take requisite steps and have the order passed today be communicated to the various authorities including the airports across the country.

11. Given the fact that the petitioners were troubled and harassed to no end, I intend to award costs of Rs.20,000/- which would be paid by respondent nos.1 and 2 within a period of two weeks from today. The proof of deposit of costs will be placed on record.

12. At this stage, learned counsel for the petitioners submits that the petitioners intend to visit India on 17.02.2018 and that this mistake should not occur again. Needless to say, unless the order by an appropriate authority is passed against the petitioners, the respondents will ensure that they are not detained in the circumstances arising in the present case.

13. Accordingly, the writ petition and pending application are disposed of in the aforementioned terms.

14. *Dasti.*

RAJIV SHAKDHER, J

FEBRUARY 06, 2018

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