

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.11.2019
CORAM
THE HONOURABLE MR. JUSTICE M.S. RAMESH
Crl.O.P.No.27996 of 2019

P.Yoganandhan

...Petitioner /Accused No.1

Vs

1. The State of Tamil Nadu
rep. by the Superintendent of Police
Salem District,
Salem. ...Respondent
2. The State of Tamilnadu,
rep. by The Inspector of Police
Sooramangalam Police Station,
Salem.(Crime No.19 of 2018) ..respondent/complainant
3. Kanimozhi ...Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C, praying to issue a direction, directing the 1st and 2nd respondents to withdraw the Lookout notice issued in Crime No.19 of 2018 on the file of the Inspector of Police, All Women Police Station, Sooramangalam, Salem District from preventing the petitioner for travelling abroad and detaining him in any immigration entry or exit point in India and interfering with his freedom of movement within India and out of India.

For Petitioner : Mr.N.Anand

For Respondents: Mr.C.Iyyapparaj for R1 & R2
Additional Public Prosecutor
M/s.K.R.Samratt for R3

O R D E R

This Criminal Original Petition is filed seeking for a direction to the 1st and 2nd respondents to withdraw the Lookout notice issued in Crime No.19 of 2018 on the file of the Inspector of Police, All Women Police Station, Sooramangalam, Salem District from preventing the petitioner for travelling

abroad and detaining him in any immigration entry or exit point in India and interfering with his freedom of movement within India and out of India.

2. Pending the investigation in Crime No.19 of 2018, Look Out Circular was opened as against the petitioner herein in connection with the investigation. It is now stated that the investigation has been conducted and the charge sheet has been laid in C.C No.710 of 2019 on the file of the Additional Mahila Court, Salem. Since the purpose for which the Look Out Circular has been opened as against the petitioner herein, has been served and the investigation has also been completed, Look Out Circular itself would lapse. It is needless to point out that, in case pending criminal proceedings, the presence of the petitioner is required by the respondent police, it is always open to them to open a fresh Look Out Circular to secure the presence of the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner herein is employed overseas and he intends to travel out of the country immediately.

4. Since the criminal proceedings is now pending against the petitioner herein in C.C No.710 of 2019 on the file of the Additional Mahila Court, Salem, the presence of the petitioner herein may be required for the purpose of conducting criminal proceedings. In this back ground, in an identical circumstance, this Court, by an order on 20.03.2018, in Crl.O.P No.6595 of 2018 had held that when the purpose for which the Look Out Circular has been met, the same would lapse and accordingly, permitted the petitioner therein to travel out of the country. The relevant portion of the said order is read as follows.

4. Earlier, this Court had passed an order in Crl.O.P No.16924 of 2017 dated 13.11.2017 (Kathirava Moorthy Vs. The Inspector of Police, W-2 All Women Police Station, Madipakkam, Chennai and 3 others) relating to an identical look-out circular, wherein the accused had appeared before the concerned Investigating Officer and it was held therein that after such an appearance, the purpose of look-out circular has been met and the order would lapse. The following observations were made in the above said order:

"5. There is nothing on record to show that the LOC was extended and even assuming that the LOC is extended, it is seen that pursuant to the LOC, when the petitioner had landed in India he was detained on the strength of the LOC and handed over to the

Investigating Officer. The purpose of the LOC is for securing the accused who has absconded for the purpose of investigation. In the present case the purpose for which the LOC was issued has been met. In view of the fact that the petitioner was detained and handed over to the Investigating Officer and when the purpose is achieved it can be said that the LOC has abated.

6. The above position is akin to situations where bailable or non-bailable warrants are issued. Once when the accused is secured on the strength of such warrants and produced before the Court, the warrant lapses, since the purpose for which it was issued had been served. Similar is the situation, in case of LOCs. If at all the presence of accused is required thereafter, it would give a fresh cause of action and hence a fresh LOC is required to secure the accused. I had an occasion to deal with a similar propositions in a judgement in S.Santhosh Kumar Vs The Superintendent of Police passed in WP No.17873 of 2017 and Crl.O.P No.13774 of 2017 dated 31.08.2017. In the said order the following observations were made:-

"In the decision relied on by the learned senior counsel for the petitioner in (Arockia Jeyabalan vs. The Regional Passport Officer, Mount Road, Chennai and others) 2014 4 Law Weekly 841 this Court had an occasion to consider that validity of the lookout circular. In that case, based on the look out notice issued by the respondents therein, the petitioner therein was arrested and remanded to judicial custody. Thereafter, the petitioner therein was released on bail. Therefore, it was held that the object of the Look Out Circular is to ensure the presence of a person for interrogation, trial or inquiry and when the purpose of such circular is served by interrogating the person, thereafter, such circular is non-est in the eye of law. Even in this case, the petitioner was subjected to enquiry at length by the fourth respondent and therefore, keeping the look out notice in force is impermissible. In the light of the above, the writ petition is allowed. No costs. The respondents are directed not to prevent the petitioner from proceeding to London to continue her studies and the Look Out Circular issued by the second respondent need not be enforced against the petitioner".

7. The above observations are self explanatory. In view of the fact that the petitioner had appeared before the respondent police in connection with Crime No.42 of 2016, the look-out circular is deemed to have lapsed. If at all the respondent police require the presence of the petitioner in future, it is open to them to seek for the appearance of the petitioner, by resorting to the procedures contemplated under the Code of Criminal Procedure.

8. In case the petitioner does not co-operate, it is always open to seek a fresh look-out circular.

9. In the result, this Criminal Original Petition stands allowed. The look-out circular dated 16.11.2016 issued against the petitioner in connection with Crime No.42 of 2016 is set aside. Consequently, the petitioner is at liberty to travel in and out of the country and the respondent as well as the immigration authorities shall not create any obstructions for his free movement in and out of the country".

5. Nevertheless since the criminal proceedings are pending as against the petitioner herein, it would be appropriate to ensure that the petitioner returns back to the country and therefore, the petitioner herein shall furnish the details with regard to the country which he intends to travel along with his personal contact address therein, including his telephone numbers (Land Line, Mobile Phone, e-mail I.D) during his stay overseas, before the Additional Mahila Court, Salem in connection with C.C No.710 of 2019. The petitioner shall also file an affidavit of undertaking before the concerned Court that he will co-operate with the criminal proceedings and shall appear whenever his presence is absolutely required.

6. With the above observations, this Criminal Original Petition stands disposed of.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

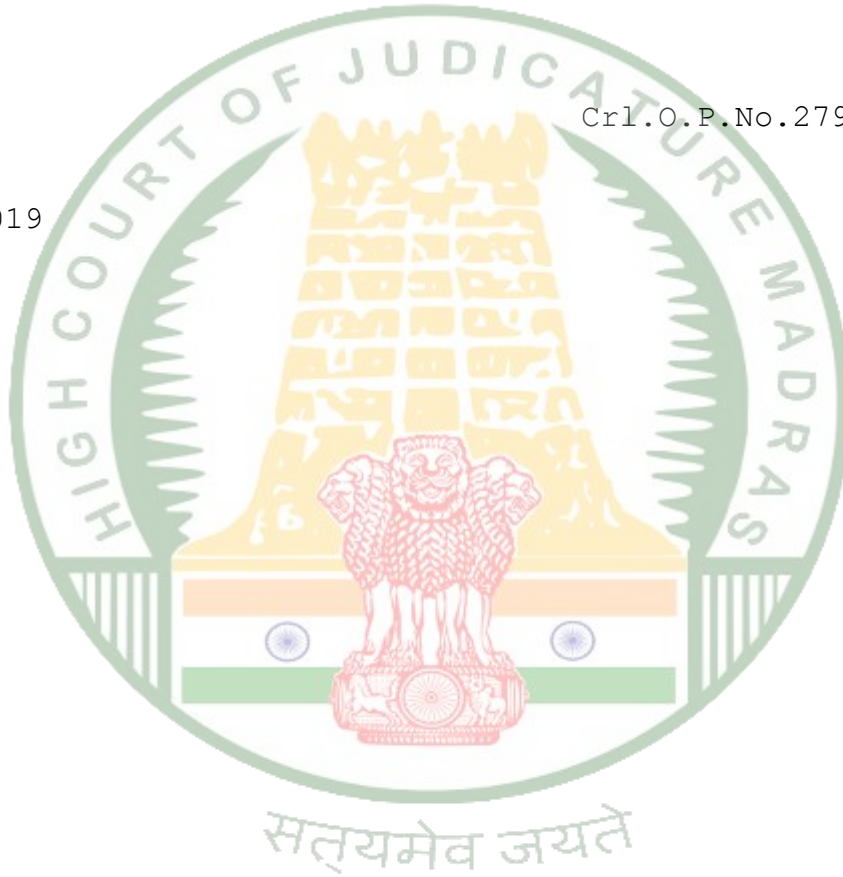
To

1. The Superintendent of Police
Salem District,
Salem.
2. The Inspector of Police
Sooramangalam Police Station,
Salem.
3. The Public Prosecutor
High Court of Madras.

+1 cc to Mr.N.Anand Advocate sr94273

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