



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2019

CORAM :

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. (MD)No.19352 of 2019

Murugesan

... Petitioner

Vs.

1.State Rep by its
The Superintendent of Police,
O/o. the Superintendent of Police,
Pudukottai, Pudukottai District.

2.State Rep by its
The Inspector of Police,
All Women Police Station,
Pudukottai.

3.The Foreigners Regional Registration Officer,
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
Shastri Bhavan,
Haddows Road,
Nungambakkam,
Chennai.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to withdraw the lookout circular issued against this petitioner in connection with the Crime No.5/2018 on the file of the 2nd respondent and consequently direct the 1st respondent to communicate the order of lifting of travel restriction imposed in pursuant to above said lookout circular to the 3rd respondent otherwise the petitioner will be put into the Irreparable loss and hardship.

For Petitioner : Mr.P.Ajuthgore

For R1 & R2 : Mr.K.Suyambulinga Bharathi
Government Advocate(crl.side)

For R3 : Mr.I.Sekar

O R D E R

<https://hcservices.ecourts.gov.in/hcservices> The prayer sought for in the present writ petition is to



direct the first respondent to withdraw the lookout circular issued against this petitioner in connection with the Crime No.5 of 2018 on the file of the second respondent.

2.The learned counsel for the petitioner would submit that on the complaint given by the defacto complainant, who is none other than the wife of the first accused, the second respondent registered a case in Crime No.5 of 2018 for the offences under Sections 417, 420, 494, 376(1), 406, 498(A)(b), 506(i) of I.P.C. and Sections 11(1) and 12 of Protection of Child From Sexual Offences Act, 2012, as against five accused persons, in which the petitioner is arrayed as fourth accused. After completion of investigation final report has been filed and the same has been taken cognizance in Spl.S.C.No.26 of 2018 on the file of the learned Judge, Mahila Court, Pudukkottai, for the offences under Sections 417, 420, 494, 495, 496, 498(A)(b) and 506(i) of I.P.C and Sections, 8, 14(4) of POCSO Act and Section 67 of IT Act r/w Sections 106 and 109 of I.P.C. He further submitted that the petitioner is a brother of the first accused. Since there is a family dispute between the petitioner and the defacto complainant, she made somay allegations as against all the family members and falsely implicated the petitioner as an accused. Even according to the defacto complainant, the petitioner's house was used by the first accused and at the time of occurrence he was not in India, he resided at Singapour. When he returned to India, he obtained anticipatory bail before the trial Court on condition that the petitioner shall surrender his passport and subsequently, in CrI.M.P.No.416 of 2019, the condition was relaxed on condition that the petitioner has to appear before the trial Court on all necessary hearings till the disposal of the case. Immediately, on the date of registration of F.I.R, itself viz., 23.06.2018, the impugned look out circular was issued by the first respondent. Thereafter, he returned to India and also obtained anticipatory bail before the trial Court and now, because of the pendency of look out circular he is not able to move outside the India. Though the entire condition imposed on him was relaxed by the trial Court and also returned the passport to the petitioner, he is not able to go abroad due to his avocation. Therefore, he sent a representation to the first respondent to withdraw the look out circular issued by the first respondent and after receipt of the same, the first respondent is keeping the same without passing any orders.

3.The learned Government Advocate (criminal side) would submit that the petitioner has been charged for the offences under Sections 417, 420, 494, 376(1), 406, 498(A)(b), 506(i) of I.P.C. and Sections 11(1) and 12 of Protection of Child From Sexual Offences Act, 2012 and the same has been taken cognizance in Spl.S.C.No.26 of 2018 for the offences under Sections 417, 420, 494, 495, 496, 498(A)(b) and 506(i) of I.P.C and Sections 8, 14(4) of POCSO Act and Section 67 of IT Act r/w Sections 106 and 109 of I.P.C and it is



pending on the file of the learned Judge, Mahila Court, Pattukkottai. The petitioner arrayed as fourth accused and if the petitioner is allowed to go abroad, he did not return to India and the entire trial will be stalled. Therefore, he vehemently opposed this writ petition.

WEB COPY

4. Heard both sides.

5. There are five accused in this case and the petitioner is arrayed as fourth accused. On the complaint lodged by the wife of the first accused a case was registered and subsequently all the accused persons are charged under Sections 417, 420, 494, 376(1), 406, 498(A)(b), 506(i) of I.P.C. and Sections 11(1) and 12 of Protection of Child From Sexual Offences Act, 2012 and the same has been taken cognizance in Spl.S.C.No.26 of 2018 for the offences under Sections 417, 420, 494, 495, 496, 498(A)(b) and 506(i) of I.P.C and Sections 8, 14(4) of POCSO Act and Section 67 of IT Act r/w Sections 106 and 109 of I.P.C on the file of the learned Judge, Mahila Court, Pudukottai.

6. On perusal of the records, the petitioner was granted anticipatory bail by an order dated 02.07.2019 in CrI.M.P.No.327 of 2018, on condition that the petitioner shall surrender his passport and subsequently, in CrI.M.P.No.416 of 2019 by order dated 23.07.2019, the learned Judge, Mahila Court, Pudukottai, relaxed the condition imposed on the petitioner and also directed to return the passport to the petitioner. Though the passport of the petitioner returned to him, he is not able to move from India. The petitioner is the own brother of the first accused and even according to the case of the prosecution, he had given his residence in India to the first accused and also he abetted the second marriage of the first accused held at Singapour. Now, the trial is pending before the learned Judge, Mahila Court, Pudukottai in Spl. S.C.No.26 of 2018 and the trial Court itself relaxed the condition and also returned the passport to the petitioner. Admittedly, the petitioner was working in Singapour for the past several years and on the registration of the present case, he return to India and obtained anticipatory bail and he has to report before his employer at Singapour and as such he submitted a detailed representation to the first respondent to withdraw the look out circular as against him.

7. Considering the facts and circumstances of the case, this Court is inclined to pass the following orders:-

The first respondent is directed to consider the representation of the petitioner, dated 19.08.2019 and withdraw the look out circular issued against the petitioner in pursuant of the Crime No.5 of 2018, dated 23.06.2018 on the file of the second respondent within a period of two weeks from the date of receipt of a copy of this order.



8. With the above direction, this Writ Petition stands allowed. No costs.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (AS)

Sub Assistant Registrar (CS)

Is

To

1. The Superintendent of Police,
O/o. the Superintendent of Police,
Pudukottai, Pudukottai District.
2. The Inspector of Police,
All Women Police Station,
Pudukottai.
3. The Foreigners Regional Registration Officer,
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
Shastri Bhavan,
Haddows Road,
Nungambakkam,
Chennai.

Copy to:

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+5 CC to M/s.P.AJU TAGORE, Advocate (SR-89630[F] dated 26/09/2019)

+1 CC to M/s.I.SEKAR, Advocate (SR-90142[F] dated 27/09/2019)

W.P. (MD) No.19352 of 2019
25.09.2019

_KK/SAR/27.09.2019/4P-11C/