



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

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THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. (MD) No.20072 of 2019

S.Kerson Raj

... Petitioner

Vs.

1. The Immigration Officer
Office of Foreign Regional
Registration Office (FPRO)
Bureau of Immigration, Shastri Bhavan Annex Building
No.26, Haddows Road
Chennai

2. The Superintendent of Police
Nagercoil,
Kanyakumari District

3. The Inspector of Police
Nagercoil
Kanyakumari District

4. The Immigration Officer
Office of the AFPRO
Trivandrum International Airport
Thiruvandapuram

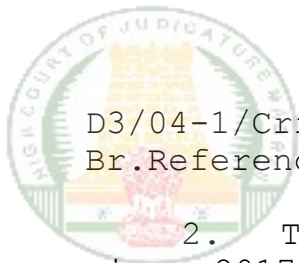
... Respondents

Prayer: Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, respondents to forthwith withdraw/ recall/ raise the lookout circular bearing number 2019402635 (Old suspect serial number 1940607) issued in reference to the request made by the superintendent of police, Kanyakumari District Tamilnadu and originators reference number D3/04-1/Crime/DCRP/KK1/2019 dated 25.1.2019 in reference to LOCs Br.Reference number and year - SIC DY/2718 dated 25.1.2019

For Petitioner	: Mr.N.Dilip Kumar
For Respondents	: Mr.R.Anandharaj
No.2 and 3	Additional Public Prosecutor
No. 1 and 4	: Mr.M.Kannan

O R D E R

The prayer in this writ petition is to direct the respondents to forthwith withdraw/ recall/ raise the lookout circular bearing number 2019402635 (Old suspect serial number 1940607) issued in reference to the request made by the superintendent of police, Kanyakumari District Tamilnadu and originators reference number



D3/04-1/Crime/DCRP/KK1/2019 dated 25.1.2019 in reference to LOCs Br.Reference number and year - SIC DY/2718 dated 25.1.2019.

2. The petitioner is employed in Saudi Arabia as a Mason, since 2017. When he visited India in the month of January 2019 he participated in the wedding function of his relative. In the said wedding function, there was a quarrel between the parties and as such the petitioner has been implicated as an accused in Crime No.30 of 2019 in reference to the alleged occurrence dated 22.01.2019. Thereafter he also went back to Saudi Arabia for his employment. Further he came to understand that a criminal case has been registered as against him and he filed petition for anticipatory bail and he was granted anticipatory bail. Even then when he visited India he was detained pursuant to the impugned look out circular issued by the second respondent pursuant to the crime registered by the third respondent in Crime No.30 of 2019. The petitioner was released on bail after executing sureties in Crime No.30 of 2019. Further it is also seen that he was also implicated in another crime No.166 of 2017 on the file of the Colachel Police Station in which he was granted bail by the learned Judicial Magistrate, Eraniel.

3. The learned Additional Public Prosecutor would submit that the petitioner is involved in three case and finally he was involved in crime No.309 of 2019 registered for offences under Sections 341,294(b),323,387 and 506(ii) of IPC on 21.08.2019. Therefore the presence of the petitioner is very much required for enquiry in all the crime numbers.

4. Per contra, the learned counsel for the petitioner also relied upon the judgment report in **2018 SCC Online Madras 205** in the case of **Shriram Sankaran -vs- State rep. by the Inspector of Poilce, W22, All Women Police Station, Mylapore, Chennai** and the relevant para is extracted here under:

"3. In a recent order of this Court made in Cr1.OP. 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) the following observations were made:

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.OP.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 observation is self explanatory. In view of the fact that the petitioner was secured and produced before the Investigating Officer, the LOC thereafter becomes non-est in the eye of law.



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8. Since the LOC against the petitioner has lapsed, no further orders are required. It is needless to mention here that since there is no LOC pending against the petitioner as on date it would be open to him to travel in and out of the country without reference to the LOC dated 04.01.2011.

4. In the result, the criminal original petition stands allowed. Consequently, the petitioner would be free to travel in and out of the country and the respondent herein shall refrain from securing or causing any hindrance by citing the earlier Look Out Circular dated 01.11.2016.

5. This Court in the order has held that Look Out Circular issued to secure the accused. In the concerned case, when the person was detained pursuant to the look out circular issued, the purpose of the look out circular is over after executing arrest on the look out circular, the petitioner was handed over to the investigating officer for further proceedings. Therefore the purpose of issuance of look out circular has been completed and the same has been lapsed.

6. Considering the above facts and circumstances of the case, the look out circular bearing number 2019402635 (old suspect serial number 1940607) issued in reference to the request made by the superintendent of police, Kanyakumari District Tamilnadu and originators reference number D3/04-1/Crime/DCRP/KK1/2019 dated 25.1.2019 in reference to LOCs Br.Reference number and year - SIC DY/2718 dated 25.1.2019, issued as against the petitioner has been lapsed. Further it is made clear that no look out circular is pending as against the petitioner as on date. The third respondent is also at liberty to issue fresh look out circular if necessary, if anything warrant as against the petitioner in respect of the crime committed by him for investigation purpose.

7. With the above observation and direction, the Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar(CS)

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Kanyakumari District
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai

+1CC TO MR. N. DILIP KUMAR, Advocate Sr. No. 96034

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TR(18.11.2019) 5P 6C