



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

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

W.P. (MD)No.23418 of 2019

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Sahayam James

... Petitioner

Vs.

1. The Superintendent of Police
Ramanathapuram
Ramanathapuram District

2. The Inspector of Police
Town Police Station
Paramakudi
Ramanathapuram District

... Respondents

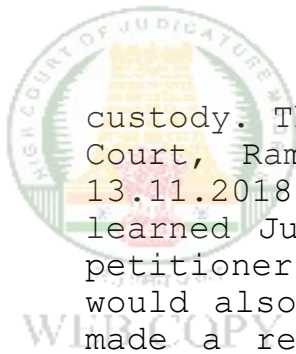
Prayer: Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, directing the respondents to withdraw the Look Out Circular as against the petitioner in reference of his old passport No.H6826746 within the time framed by this Honourable Court.

For Petitioner	: Mr.RM.Arun Swaminathan
For Respondents	: Mr.R.Anandharaj
No.1 and 2	Additional Public Prosecutor

O R D E R

The prayer in this writ petition is to direct the respondents to withdraw the Look Out Circular as against the petitioner in reference of his old passport No.H6826746

2. The petitioner is working in United States of America. Some of the local residents have borrowed hand loan through his bank account and failed to repay. Hence he sought help to one Arulanthu to get back the amount from the borrowers, instead he colluded them and started threatening the petitioner, for which he replied him through Facebook. Thereafter the said Arulanthu lodged a false complaint against the petitioner in Crime No. 255 of 2017 for the offences under Sections 292,294(b), 506(ii) of IPC and Section 67 of Information Technology Act. He also induced one Manicham and gave another false complaint in Crime No.88 of 2018 for the offences under Sections 364, 294(b),323,387, 506(ii) of IPC and Section 67 of Information Technology Act. The petitioner was not aware of both the complaints. At this juncture when he returned to India in the month of November-2018 for medical treatment to his mother, he was arrested at Bangalore International Airport and remanded to judicial



custody. Thereafter he was enlarged on bail by the District Sessions Court, Ramanathapuram in CrI.M.P.Nos.2109 and 2091 of 2018 dated 13.11.2018 on condition that he has to deposit the passport to the learned Judicial Magistrate, Paramakudi. As per the condition, the petitioner has deposited his passport to the concerned court. He would also submit that since he has to join back to his project he made a representation to the first respondent on 24.10.2019 for withdrawal of the Look Out Circular against him. Hence he has filed the present writ petition.

3. The learned Additional Public Prosecutor would submit that there are two cases pending against the petitioner. Therefore the presence of the petitioner is very much required for enquiry in all the crime numbers.

4. It is relevant to rely upon the judgment report in **2018 SCC Online Madras 205** in the case of **Shriram Sankaran -vs- State rep. by the Inspector of Police, 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 CrI.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



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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.

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 second respondent is directed to withdraw the Look Out Circular as against the petitioner in reference of his old passport No.H6826746 . Further it is made clear that no look out circular is pending as against the petitioner as on date. The second 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

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Superintendent of Police
Ramanathapuram
Ramanathapuram District

2. The Inspector of Police
Town Police Station
Parakudi
Ramanathapuram District

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

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+1 CC to Mr.RM.ARUN SWAMINATHAN, Advocate (SR-96294[F] dated
06/11/2019)

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