

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.03.2020

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No. 5333 of 2020
and Crl.M.P.No.3026 of 2020

L.Vinoth Kumar

.. Petitioner

Vs

1. The Deputy Commissioner of Police,
Crime against the Women and Children
Thousand Lights, Chennai.
2. The State Rep. by
The Inspector of Police,
W-35, All Women Police Station,
Tambaram.
(Crime No.42 of 2016)

.. Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to cancel the lookout notice issued against the petitioner by the first respondent in Crime No.42 of 2016 on the file of the W-35, All Women Police Station Tambaram and permit the petitioner to go to employment at Singapore.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

This petition has been filed seeking to cancel the lookout notice issued against the petitioner by the first respondent in Crime No.42 of 2016 on the file of the W-35, All Women Police Station Tambaram and permit the petitioner to go to employment at Singapore.

2. Heard Mr.M.Guruprasad, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondents.

3. The learned Additional Public Prosecutor, on instructions, submitted that the look-out circular came to be issued on 16.11.2016 and was subsequently renewed. It is also submitted by the learned learned Additional Public Prosecutor that in pursuant to the above said look-out circular dated 16.11.2016, the petitioner herein had appeared before the second respondent / police, for the purpose of investigation.

4. Earlier, this Court had passed an order in CrI.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 CrI.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 look out 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."

5. The above observations are self explanatory. In view of the fact that the petitioner had appeared before the second respondent / police in connection with Crime No.42 of 2016, the look-out circular is deemed to have lapsed. If at all the respondents / 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.

6. At this juncture, the learned Additional Public Prosecutor submitted that the investigation in the instant case has been completed and charge sheet has been filed and the same has been taken cognizance in C.C.No.151 of 2017 on the file of the learned Magistrate, Tambaram and it is pending and now the matter is referred to Mediation.

7. It is also seen that the petitioner has filed a quash petition to quash the entire proceedings in C.C.No.151 of 2017 on the file of the learned Magistrate, Tambaram, which is pending before this Court in CrI.O.P.No.26900 of 2019. In such circumstances, the look-out circular dated 16.11.2016 issued against the petitioner in connection with crime No.42 of 2016 has no legs to stand and hence the same is set aside.

8. In the result this Criminal Original Petition stands allowed. Consequently, the connected Criminal Miscellaneous Petition is closed. 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. However, in case the petitioner does not co-operate, it is always open to the respondents to seek a fresh look-out circular / notice.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate, Tambaram/
2. The Deputy Commissioner of Police,
Crime against the Women and Children
Thousand Lights,
Chennai.
3. The Inspector of Police,
W-35, All Women Police Station,
Tambaram.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Guruprasad, Advocate, SR.No.20968.

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and
Crl.M.P.No.3026 of 2020

CSR: 11.03.2020