



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.01.2020**

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.[MD] No.176 of 2020

Rabiyattu

: 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,
Tanjavur District, Thanjavur.

3.The Inspector of Police,
(*)Thiruvaiyaru Police Station,
Thanjavur District.

: Respondents

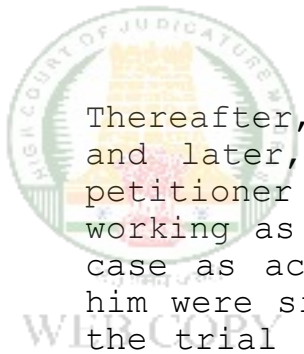
PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the third respondent to return the petitioner's passport vide No.U0786806 and to communicate the order of lifting of travel restriction imposed in pursuance of above said lookout notice to the first respondent.

For Petitioner : Mr.M.Ramu

For Respondent : Mr.S.Chandrasekar,
Additional Public Prosecutor

ORDER

The petitioner is the third accused in C.C.No.71 of 2015 pending trial on the file of the Judicial Magistrate, Thiruvaiyaru, Thanjavur District, for the offences under Sections 420 and 493 of IPC based on the complaint given one Manjula. The allegation in the complaint is that the said Manjula married the first accused/Vibulanathan on 10.04.2006. The further allegation is that the said Vibulanathan/A1 is a NRI living in London and at the time of marriage, he had promised to take to London, however, he had refused to take her. Originally, the case was registered in Crime No.169 of 2007 and final report was filed in C.C.No.36 of 2009 against the petitioner along with others. Thereafter, the case had been split out against the petitioner in C.C.No.71 of 2015 and since the petitioner did not appear, the trial Court had issued non-bailable warrant and thereafter, issued a lookout circular against her. While being so, on 09.01.2020, when the petitioner has landed at Mumbai Airport from London with passport bearing No.U0786806, she was detained by the Immigration Officer in connection with the lookout circular issued by the second and third respondent in connection with the Crime No.169 of 2007 in C.C.No.71 of 2015.



Thereafter, she was produced before the trial Court on 13.12.2019 and later, she was released on bail on 14.12.2019. Though the petitioner is a citizen of India, she is normal resident of London working as house maid. The petitioner's husband was also tried the case as accused in C.C.No.36 of 2009 and that the charges against him were similar to the petitioner. He had been later acquitted by the trial Court. Since the petitioner has to go back England for her employment, the present petition has been filed seeking for return of her passport and to communicate the order of lifting of travel restriction imposed in pursuance of the lookout notice issued in connection with the crime No.169/2007 in CC.No.71 of 2015 pending on the file of the Judicial Magistrate, Thiruvaiyaru.

2.The learned counsel for the petitioner would submit that the petitioner has filed quash petition in Crl.O.P(MD)No.520 of 2020 seeking to quash the proceedings in C.C.No.71 of 2005 and this Court by order dated 10.01.2020, has granted interim stay of further proceedings. The learned counsel would submit that the right of the petitioner to travel abroad cannot be curtailed and that the lookout circular had been issued only to ensure the presence of the petitioner before the Court. Now that she has submitted her to the Court there is no useful purpose in keeping the lookout circular pending. He would submit that the petitioner is prepared abide by any stringent conditions that may be imposed by this Court and that she is prepared to cooperate with the progress of the trial by ensuring her presence wherever required. He would also submit that the petitioner is prepared to furnish the details with regard to her stay in England and also her personal conduct number including her mobile number, land-line, e-mail I.D during her stay at abroad before the respondent as well as before the Court. He would submit that the petitioner will also ensure that she will be duly represented by a counsel before the trial court and that whenever her presence is necessary, she will appear before the trial Court. He would submit that since the petitioner has been arrested, the object of the issuance of the lookout circular has ceased to operate. In support of his contention, the counsel for the petitioner relied on the order passed by this Court in **S.Santhoshkumar vs. The Superintendent of Police (W.P.No.17873 of 2017 and Crl.O.P.No.13774 of 2017)**. Wherein, the following observations have been 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".

3.The learned Additional Public Prosecutor would submit that since the petitioner did not appear before the trial Court, the trial Court had issued non-bailable warrant against her and pursuant to which, the lookout circular was initiated and on the request of the second respondent, the petitioner was arrested when she was landed at the Mumbai Airport on 09.12.2019. He would submit that the case has been split out and that the other two accused are yet to be apprehended and thereby the prosecution is unable to proceed further.

4. This Court has granted stay of further proceedings in C.C.No.71 of 2015. In such circumstances, it would be appropriate only to ensure that the petitioner returns back to India to cooperate with the prosecution of the trial and since now that the proceedings have been stayed and that the other two accused are yet to be apprehended, no useful purpose will be served by holding the passport of the petitioner and preventing her leaving the country.

<https://hcservices.courts.gov.in/hcservices/> of this Court, the passport of the petitioner may be



directed to be returned to her and a direction may be issued to the respondents to lift the travel restriction imposed in pursuance of the above said lookout circular and the petitioner be permitted to travel abroad subject to the following conditions:

"the petitioner shall appear before the third respondent and execute the bond for Rs.25,000/- along with two sureties for the likesum (the two sureties will be related to the petitioner) and further furnish the details with regard to her stay in England and also furnish her personal details including her address, Cell number and residential land line number and e-mail I.D to ensure that she be intimated of any progress in the case so as to make her appear before the Court.

This criminal original petition is disposed of accordingly.

Sd/-

Assistant Registrar (CS-II)

**(*) Amended as per order of this Court
dated 21.01.2020 made in Crl.MP (MD) No.396
of 2020 in Crl.OP (MD) No.176/2020**

Sd/-

Assistant Registrar (CO)

/ True Copy /

/ /2020

Sub Assistant Registrar (CS-IV)

To

(*) (To be substituted the order already despatched on 10.01.2020)

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, Tanjavur District, Thanjavur.
3. The Inspector of Police,
(*) Thiruvaiyaru Police Station, Thanjavur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.RAMU, Advocate (SR-1555[F] dated 10/01/2020)

**Crl.O.P. [MD] No.176 of 2020
10.01.2020**

SKN

JMN/SAR 4/10.01.2020/4P/6C

SMA/23/01/2020/4P/6C