

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

W.P. No. 11685 of 2021
and W.M.P. Nos.12439 and 12440 of 2021

Balajiee Thiirumal

..Petitioner

Vs.

- 1.The State Represented by
Deputy Commissioner of Police,
Ambattur, Chennai.
- 2.The State Represented by
Inspector of Police,
W-30, All Women Police Station,
Poonthamallee, Chennai.
- 3.The Chief Immigration Officer,
Shastri Bhavan Annexe Building,
No.26, Haddows Road,
Nungambakkam, Chennai - 600 006.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus calling for the records pertaining to the LOC NO.2021404068 dated 15.02.2021 of the first respondent and quash the same and further direct the first respondent to communicate the order of lifting the travel restriction imposed pursuant to the above said Lookout Circular to the third respondent.

For Petitioner : Mr. M. Sriram, for
Mr.Ramesh Venkatachalapathy

For Respondents : Mr. L.Baskaran for RR-1 & 2
: Mr. K.Ramanamoorthy for R-3

O R D E R

This writ petition is filed challenging the order of the first respondent in LOC NO.2021404068 dated 15.02.2021 and to direct the first respondent to communicate the order of lifting the travel restriction imposed pursuant to the above said Lookout Circular to the third respondent.

2. The case of the petitioner is that the marriage of the petitioner with the defacto complainant was solemnized on 14.12.2018 as per the Hindu rites and customs. Thereafter they started living in United Kingdom (UK) since the petitioner is running a business in United Kingdom. Matrimonial dispute arose between the petitioner and the defacto complainant wife and so the defacto complainant registered a complaint in Cr.No.2 of 2021 under Sections 498 A, 406, 506(1) IPC, before the second respondent herein. Immediately after registration of case, the first respondent issued notice under Section 41 A Cr.P.C. to the petitioner and had issued Look Out Circular. The petitioner approached this Court and filed anticipatory bail in Crl.O.P. No.4754 of 2021 and this Court, by order dated 10.03.2021, directed the parties to go for mediation and settle their dispute and further restrained the second respondent from arresting the petitioner till 22.03.2021. The petitioner again filed a quash petition in Crl.O.P. No.5948 of 2021 to quash Cr.No.2 of 2021 and this Court by order dated 29.03.2021 stayed the investigation for a period of four weeks and further directed the parties to go for mediation. It appears that in the course of mediation, both the parties mutually agreed to dissolve the marriage by mutual consent and they have entered into a Memorandum of Understanding on 21.04.2021. After entering into the Memorandum of Understanding, the defacto complainant wife had undertook to withdraw her complaint as against the petitioner in Cr.No.2 of 2021. Thereafter, the petitioner filed a mutual consent petition for divorce in H.M.O.P. NO.427 of 2021 before the Sub Court, Poonamallee. The petitioner states that during the first date of hearing, the petitioner had handed over few of the belongings to the defacto complainant. When the petitioner was about to go to United Kingdom from Bangalore, the third respondent enforced the order of the first respondent in LOC No. 2021404068 and handed over the petitioner to the Inspector of Police, Airport Police Station, Devenhally, Bangalore. The grievance of the petitioner is that though the defacto complainant wife had undertook to withdraw the complaint in view of the look out notice being alive, he could not return to United Kingdom to carry out his business. Aggrieved by the same, the petitioner filed this present writ petition to quash the order of the first respondent.

3. Learned counsel for the petitioner submits that both the parties have entered into Memorandum of Understanding on 21.04.2021. He further submits that the defacto complainant wife has agreed to withdraw Cr.No.2 of 2021 and hence the LOC issued against the petitioner deserves to be set aside. It is further submitted by the learned counsel for the petitioner that in the event the petitioner is restrained to proceed to United Kingdom, much prejudice would be caused to him, as his visa would lapse

and his business would suffer and, therefore, in view of the amicable settlement reached between the parties, the look out notice has to be set aside.

4. Learned counsel appearing for the respondents did not dispute the fact that the parties have entered into a Memorandum of Understanding and the defacto complainant wife had undertaken to withdraw Cr.No.2 of 2021.

5. A perusal of the materials available on record reveal that the petitioner and the defacto complainant have mutually agreed to dissolve the marriage by mutual consent and they have entered into a Memorandum of Understanding on 21.04.2021. The Memorandum of Understanding is as follows:

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is made and entered into at Chennai this the 21st day of April 2021 between;-

Mr. Balajice Thiirumal, S/o. Thirumal (Late), C/o.Renuga,, Hindu, aged about 34 years, now residing at No.21, Head Post Office Road, Coimbatore-641001, herein after called as the party of the FIRST PART

And

V. Dhiyanapriya, W/o. Balaji Thirumal, Daughter of Venkatachalapathy, Hindu, aged about 27 years, now residing at No. 409, VGN IMPERIA, Phase 4, VGN Magalakshmi Nagar, Perumalagaram, Thiruverkadu, Chennai-600 077 thereafter called as party of the SECOND PART

WHEREAS the Balajiee Thiirumal and V. Dhiyanapriya are husband and wife, they have got married on 14.12.2018 at Sri. Karivaradharaja Perumal Thirukoil, Peelamedu at Coimbatore, in the presence of the both family elders as per Hindu customs, traditions and rites and the marriage was registered on the same day on 14.12.2018 at Joint-1, Marriage Registrar, District Register office Coimbatore,

WHEREAS the Balajice Thiirumal and V. Dhiyanapriya were living separately from 14.08.2020 to till date, their marriage has irretrievably broken down and they

have decided to file a divorce petition by mutual consent by praying to dissolve their marriage under section 13 B of Hindu Marriage Act before the jurisdiction court, Poonamalee today.

WHEREAS the Balajiee Thiirumal states that the seedana jewels given to V.Dhiyanapriya his wife by her parents are under the custody of the V.Dhiyanapriya.

WHEREAS V. Dhiyanapriya also acknowledge the same that no jewels or any of her belongings are in the custody of the T.Balaji Thirumal.

WHEREAS Balajiee Thiirumal and V.Dhiyanapriya undertake that they will appear on hearing dates before the court for divorce case by mutual consent and also to sign, represent petitions and file appropriate petitions and to give evidences before the court.

WHEREAS the Balajiee Thiirumal and V. Dhiyanapriya agree that there shall be no claim present or future for maintenance against each other as they have already parted with their respective articles and further undertake not to make any financial claims against each other in future.

WHEREAS V.Dniyanapriya undertakes and states that we will withdraw the complaint given before the Inspector of police, AWPS Poonamallee which has been registered in Crime no.2 of 2021 on 13.02.2021, she has settled and she undertakes to say no objection in the quash petition filed by T.Balaji Thirumal in the above Crime no since the matter is settled mutually between each other on the receipt of the divorce.

WHEREAS the Balajiee Thiirumal and V.Dhiyanapriya undertake that both of them will not take any further legal action against each other both civil or criminal law except the mutual consent divorce petition."

It is further seen from the Memorandum of Understanding that the defacto complainant wife had undertaken to record that she has no objection for passing an order quashing Crime No.2 of 2021. Since the matter is settled mutually and the defacto

complainant has agreed to withdraw Crime No.2 of 2021, the look out circular issued against the petitioner definitely ought to have been withdrawn. However, the same has not been withdrawn, which is working out much hardship to the petitioner. In such a scenario, this Court is of the considered view that the look out circular issued against the petitioner deserves to be set aside.

6. For the reasons aforesaid, this writ petition is allowed and the impugned LOC NO.2021404068 dated 15.02.2011, is hereby set aside and the first respondent is directed to communicate the order of lifting the travel restriction imposed pursuant above said Lookout Circular to the third respondent forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

bkn/ssr

To

1.The Deputy Commissioner of Police,
Ambattur, Chennai.

2.The State Represented by
Inspector of Police,
W-30, All Women Police Station,
Poonthamallee, Chennai.

3.The Chief Immigration Officer,
Shastri Bhavan Annexe Building,
No.26, Haddows Road,
Nungambakkam, Chennai - 600 006.

+1 CC to Mr.M. Shriram, Advocate sr 27297.

W.P. No. 11685 of 2021

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PP(CO)

SP(03/06/2021)