



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.08.2021
CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.15947 of 2021
and WMP.No.16844 of 2021

N.Nirmal Kumar ... Petitioner

Versus

1.Regional Passsport Officer,
Royala Towers No.2 & 3, IV Floor,
Old No.785, New No.158,
Anna Salai, Chennai - 600 002.

2.The Inspector of Police,
W-13, All Women Police Station,
Washermanpet, Chennai-600 081.

... Respondents

PRAYER: Writ petitioner has been filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents herein to revoke the flagging /red flagging or any other variations or cancellations of conditions or endorsements attached to the petitioner's passport bearing No.Z3265425 issued by the 1st respondent, which has been imposed without following the due process of law and enable the petitioner to carry on his profession as Commander in Air India Ltd., peacefully.

For Petitioner : Mr.M.N.Sumathy

For Respondents: Mr.A.Damodaran

Government Advocate (Crl.Side)

ORDER

The writ petition has been filed for a writ of mandamus directing the respondents herein to revoke the flagging /red flagging or any other variations or cancellations of conditions or endorsements attached to the petitioner's passport bearing No.Z3265425 issued by the 1st respondent, which has been imposed without following the due process of law and enable the petitioner to carry on his profession as Commander in Air India Ltd.,.

2.The petitioner is a Commander, Pilot in Air India Ltd., since 2009 and is operating International flights. He is holding an Indian Passport bearing No.Z3265425 issued by the first respondent. The petitioner married the defacto-complainant with S.Rekha, on 10.02.2019, who is a BDS Doctor. After the



marriage, their developed difference of opinion between them and on 24.11.2019, his estranged wife Rekha lodged a complaint to the respondent police against the petitioner, his mother and his sister in W-13, All Women Police Station, Washermanpet in Crime No.8/2020 for offences under Sections 498(A), 406, 506(i), Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 6 of Dowry Prohibition Act, 1961.

3.The gist of the complaint is that on 10.02.2019, the marriage between the petitioner and the defacto complainant took place at Murugan Temple in Tondiarpet. Thereafter, on 12.02.2020, reception was held. During the marriage, the customary exchange of Sridhana articles took place and thereafter, there had been some matrimonial disputes. On 02.05.2019, the petitioner had left the defacto complainant in her parents' house and thereafter, deserted her. Hence, a complaint came to be lodged.

4.The petitioner, on registration of the case, had filed Anticipatory Bail application before this Court, he had also filed divorce petition before the Sub-Court, Tambaram in HMOP No.352/2020 seeking divorce. This being the case, the respondent police were chasing the petitioner. Hence, the petitioner approached this Court in Crl.O.P.No.8779 of 2020 and this Court by an order dated 17/06/2020 had directed the respondent police to issue 41(A) notice and in any violation of the same, coercive action to be taken. Thereafter, the petitioner approached the Apex Court in S.L.P.(Crl).No.3903 of 2020 and the Apex Court, by an order 07.09.2020 had given a protection to the petitioner directing the respondent police not to arrest the petitioner in Crime No.8 of 2020.

5.Offended to the same, the respondent police, for the reason best known, letters were issued to the Immigration Authorities by the Deputy Commissioner of Police, CWC, Thousand Lights. The respondent police had sent a communication, on his request, The Deputy Commissioner of Police, CWC, Thousand Lights, Chennai - 600 006, had sent a communication to the Immigration Authorities on 23.06.2020 to originate a Look Out Circular against the petitioner and maintain the same for the purpose of expedite the investigation and for successful prosecution. The proforma containing the details of the petitioner was submitted. Thereafter, the Immigration Authorities had issued a red flagged notice on the petitioner, the petitioner is not permitted to fly.

6.The learned Government Advocate (Crl.side) appearing for the respondents submitted that on the complaint of the defacto complainant viz., Rekha, the case came to be registered in Crime No.8 of 2020 and thereafter, the petitioner was avoiding and not



participating, cooperating for enquiry, thereafter, for investigation only communication sent to Immigration Authorities. The petitioner was informed about the pendency of the complaint and thereafter the FIR, the petitioner taking advantage of being a pilot, was giving one reason or the other and evading to appear for investigation, which necessitated the Inspector of Police to request the Deputy Commissioner of Police to write to Immigration Authorities. On the request of the Inspector of Police, initially on 22.05.2020 and followed by another communication dated 23.06.2020, the Deputy Commissioner of Police, CWC, Thousand Lights, requested the Assistant Director, Bureau of Immigration to issue Look Out Circular. Thereafter, Look Out Circular issued and the petitioner was detained in the Airport and not permitted to fly.

7.It is seen that the petitioner, on 13.10.2020, initially issued 41(A) notice and the notice was served through the Chief Manager, Air India, who in turn informed the petitioner about the same. Second notice, within two days dated 15.10.2020, was issued and thereafter, the petitioner appeared before the respondent police on 19.10.2020 and gave undertaking that he shall appear before the respondent police as and when required for investigation. Thereafter, he failed to do so. The petitioner approached the Apex Court and obtained the direction not to arrest by an order dated 07.09.2020.

8.From the affidavit and materials produced, it is seen that the marriage between the petitioner and the defacto complainant had taken place on 10.02.2019 and thereafter, some matrimonial dispute, a complaint was lodged by the defacto complainant and FIR was registered. Requisition of Look Out Circular was issued on 22.05.2020 and 23.06.2020, which on the face of it is not proper. On the day when the requisition of Look Out Circular was issued, there was no case registered against the petitioner.

9.In this case, admittedly 41(A) notice was issued only during October, 2020 and for what reason, requisition of the Look Out notice was issued during May and June, 2020 is not known, obviously, for extraneous consideration. Further, the petitioner is a pilot employed in Public Sector undertaking Air India. His movement and whereabouts is known, very much available and in such circumstances, issuance of Look Out Circular is unwarranted. This Look Out Circular, obviously, was issued to create embarrassment and harassment to the petitioner. It is surprising to know that a Senior Officer in the cadre of Deputy Commissioner of Police, without considering these facts, has mechanically issued requisition for Look Out Circular. Further, the Assistant Director, Immigration, ought to have verified the seriousness of the offense and the stage of the investigation, whether at all such circular to be issued. For



this purpose, Senior Officer in the cadre of Superintendent of Police and above are to issue requisition of Look Out Circular. The Apex Court have time and again given a direction to the investigating agency to follow the guidelines and not to be in haste in the case of matrimonial disputes and in this case, the petitioner is a pilot by his avocation which requires flying to various countries and he is an employee in a public sector undertaking.

10.The learned Government Advocate (Crl.side) submits that in this case, investigation has been completed and charge sheet would be filed shortly.

11.In view of the same, this Court not going into the merits or otherwise of the case. Finds issuance of Look Out Circular by the respondent police and forwarding the same by the Deputy Commissioner of Police, CWC, Thousand Lights to All Women Police Station, Washermanpet, unwarranted, condemnable. In future, the Senior Police Officers are to be careful before issuing such request and the Immigration authorities not to mechanically act on the request of the police officials, The Immigration authorities to verify the contents of allegation, its stage and thereafter, if feels absolutely necessary, such notification can be issued by the Immigration Authorities. In experience, we see that once a notification is issued, the passengers are detained irrespective of the duration of specific period, never the notification is withdrawn within the stipulated period. the Immigration Authorities in future to follow the guidelines and to act in alacrity. As far as this case is concerned, the Look Out Circular issued against the petitioner is hereby revoked and quashed.

12.In view of the above, the criminal original petition is allowed and the Immigration Authorities is directed to remove the prohibition issued against the petitioner for travel. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sms

To
1.Regional Passsport Officer,
Royala Towers No.2 & 3, IV Floor,
Old No.785, New No.158,
Anna Salai, Chennai - 600 002.



2.The Assistant Director/ SIC
Bureau of immigration,
Hqts, East Block VIII
Sector I, R.K.Puram,
New Delhi.

WEB COPY

3.The Inspector of Police,
W-13, All Women Police Station,
Washermanpet, Chennai-600 081

4.The Commissioner of Police,
Greater Chennai.
Vepery, Chennai.

5.The Deputy Commissioner of Police, CWC,
Thousand Lights, Chennai 600 006.

6.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s. M.N.Sumathy, Advocate, SR.No.39639

W.P.No.15947 of 2021

SJ (CO)
B.VC (16.08.2021)